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SENATE BILL 360

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO MUNICIPAL ELECTIONS; REQUIRING COUNTY CLERKS TO  
ADMINISTER MUNICIPAL ELECTIONS IN CERTAIN MUNICIPALITIES;  
RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW  
BY REPEALING LAWS 1995, CHAPTER 98, SECTION 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-8-2 NMSA 1978 (being Laws 1985,  
Chapter 208, Section 10, as amended) is amended to read:

"3-8-2. DEFINITIONS.--

A. The definitions in Section 3-1-2 NMSA 1978 shall  
apply to the Municipal Election Code in addition to those  
definitions set forth in the Municipal Election Code.

B. As used in the Municipal Election Code:

(1) "absentee voter list" means the list  
prepared by the municipal and county clerks of those persons

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1 who have been issued an absentee ballot;

2 (2) "ballot" means a system for arranging and  
3 designating for the voter the names of candidates and questions  
4 to be voted on and for the marking, casting or otherwise  
5 recording of such votes. "Ballot" includes marksense ballots,  
6 absentee ballots, ballot faces, emergency paper ballots and  
7 paper ballots used in lieu of voting machines;

8 (3) "ballot face" means the material placed on  
9 the front of the voting machine containing the names of the  
10 candidates, the offices the candidates are seeking and a  
11 statement of the proposed questions to be voted upon;

12 [~~(4)~~ "clerk" or "municipal clerk" means the  
13 municipal clerk or any deputy or assistant municipal clerk;

14 ~~(5)]~~ (4) "county clerk" means the clerk of the  
15 county or [his] the county clerk's designee within which the  
16 municipality is located;

17 [~~(6)~~] (5) "election returns" means all  
18 certificates of the precinct board, including the certificate  
19 showing the total number of votes cast for each candidate, if  
20 any, and for or against each question, if any, and shall  
21 include statements of canvass, signature rosters, registered  
22 voter lists, machine-printed returns, emergency paper ballots,  
23 paper ballots used in lieu of voting machines, absentee  
24 ballots, absentee ballot registers and absentee voter lists or  
25 absent voter machine-printed returns;

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1                    [~~(7)~~] (6) "emergency paper ballot" means the  
2 paper ballot used when a voting machine becomes disabled so  
3 that a voter is unable to cast a vote for all of the candidates  
4 and questions of the voter's choice and have such vote  
5 correctly recorded by the voting machine and when no substitute  
6 voting machine is available;

7                    [~~(8)~~] (7) "marksense ballot" means a paper  
8 ballot card used on an optical-scan vote-tabulating machine;

9                    [~~(9)~~] "~~municipal clerk's office~~" means the  
10 ~~office of the municipal clerk or any other room used in the~~  
11 ~~process of absentee voting, counting and tallying of absentee~~  
12 ~~ballots or canvassing the election results within the confines~~  
13 ~~of the building where the municipal clerk's office is located;~~

14                    [~~(10)~~] (8) "paper ballot" means a ballot  
15 manually marked by the voter and counted by hand without the  
16 assistance of a machine or optical-scan vote-tabulating device;

17                    [~~(11)~~] (9) "precinct" means a portion of a  
18 county situated entirely in or partly in a municipality that  
19 has been designated by the county as a precinct for election  
20 purposes and that is entitled to a polling place and a precinct  
21 board. If a precinct includes territory both inside and  
22 outside the boundaries of a municipality, "precinct", for  
23 municipal elections, shall mean only that portion of the  
24 precinct lying within the boundaries of the municipality;

25                    [~~(12)~~] (10) "consolidated precinct" means the

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1 combination of two or more precincts pursuant to the Municipal  
2 Election Code;

3 [~~(13)~~] (11) "precinct board" means the  
4 appointed election officials serving a single or consolidated  
5 precinct;

6 [~~(14)~~] (12) "recheck" pertains to voting  
7 machines and means a verification procedure where the counter  
8 compartment of the voting machine is opened and the results of  
9 the balloting as shown on the counters of the machine are  
10 compared with the results shown on the official returns; and

11 [~~(15)~~] (13) "recount" pertains to emergency  
12 paper ballots, paper ballots used in lieu of voting machines  
13 and absentee ballots and means a retabulation and retallying of  
14 individual ballots."

15 Section 2. Section 3-8-6 NMSA 1978 (being Laws 1985,  
16 Chapter 208, Section 14, as amended) is amended to read:

17 "3-8-6. COUNTY CLERK--ELECTION DUTIES.--The county clerk  
18 shall maintain accurate voter registration information for each  
19 municipality located in the county [~~The county clerk shall~~  
20 ~~provide to the municipal clerk, in advance of a municipal~~  
21 ~~regular or special election, the names of only those registered~~  
22 ~~voters entitled to vote in the municipal election]~~ as required  
23 in Subsection B of Section 3-8-7 NMSA 1978."

24 Section 3. Section 3-8-7 NMSA 1978 (being Laws 1965,  
25 Chapter 300, Section 14-8-5, as amended) is amended to read:

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1 "3-8-7. [~~MUNICIPAL CLERK~~] COUNTY CLERK--ELECTION  
2 DUTIES.--

3 A. The [~~municipal~~] county clerk shall:

4 (1) administer the municipal election;

5 (2) with the consent of the governing body,  
6 secure the necessary polling places;

7 (3) see that all necessary supplies and  
8 equipment are present at each polling place prior to the  
9 opening of the polls on the day of the election;

10 (4) certify voting machines;

11 (5) conduct an election school for precinct  
12 board members as required in Section 3-8-21 NMSA 1978;

13 (6) keep the office of the [~~municipal~~] county  
14 clerk open on election day for the purpose of receiving ballot  
15 boxes, election returns and materials until all election  
16 returns and materials are received; and

17 (7) within fifteen days of the holding of any  
18 municipal election, [~~forward to the county clerk~~] produce a  
19 listing of all individuals voting in the municipal election.

20 B. [~~Within fifteen days of the adoption of the~~  
21 ~~election resolution, the municipal clerk shall request in~~  
22 ~~writing from the county clerk the registered voter lists and~~  
23 ~~signature rosters containing only the qualified electors~~  
24 ~~eligible to vote in the municipal election. The county clerk~~  
25 ~~shall provide to the municipal clerk a printed registered voter~~

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1 ~~list and the voter registration information in compatible~~  
2 ~~electronic format containing only the qualified electors~~  
3 ~~eligible to vote in the municipal election twenty days prior to~~  
4 ~~the election. At least seven days prior to every municipal~~  
5 ~~election, the county clerk shall furnish to the municipal clerk~~  
6 ~~the registered voter list and signature roster containing only~~  
7 ~~the qualified electors eligible to vote in the municipal~~  
8 ~~election. A municipal clerk shall not amend, add or delete any~~  
9 ~~information to or from the registered voter list except as~~  
10 ~~otherwise provided by law. The registered voter list shall~~  
11 ~~constitute the registration list for the municipal election.~~  
12 ~~The registered voter list does not have to be returned to the~~  
13 ~~county clerk.] The county clerk shall prepare the voter lists,~~  
14 ~~signature roster and voter registration information necessary~~  
15 ~~to conduct the municipal election. The municipality shall bear~~  
16 ~~the reasonable cost of preparation of the voter lists,~~  
17 ~~signature rosters and voter registration [in electronic format]~~  
18 ~~information but in no case in an amount that exceeds the actual~~  
19 ~~cost to the county."~~

20 Section 4. Section 3-8-10 NMSA 1978 (being Laws 1985,  
21 Chapter 208, Section 18, as amended) is amended to read:

22 "3-8-10. CONSOLIDATION OF PRECINCTS.--

23 A. Any precinct may be combined with one or more  
24 adjacent and contiguous precincts by the governing body when  
25 the [~~municipal~~] county clerk determines that consolidation is

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1 in the best interest of those precincts and will not compromise  
2 the orderly and efficient conduct of the election.

3 B. Precincts may be consolidated in any regular or  
4 special municipal election, including bond elections, except  
5 when prohibited by law."

6 Section 5. Section 3-8-11 NMSA 1978 (being Laws 1985,  
7 Chapter 208, Section 19) is amended to read:

8 "3-8-11. POLLING PLACES.--

9 A. The governing body shall designate within the  
10 municipal boundaries a polling place, in each precinct or  
11 consolidated precinct, [~~which~~] that is the most convenient and  
12 suitable public building or public school building in the  
13 precinct that can be obtained and [~~which~~] that provides  
14 suitable access for handicapped persons as required by law.

15 B. If no public building or public school building  
16 is available, the governing body shall provide some other  
17 suitable place, which shall be the most convenient and  
18 appropriate place obtainable within the municipal boundaries  
19 and in the precinct, considering the purpose for which it is to  
20 be used.

21 C. If no public building or public school building  
22 is available in the precinct and if there is no other suitable  
23 place obtainable in the precinct, the governing body may  
24 designate as a polling place for the precinct the most  
25 convenient and suitable building or public school building

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1 nearest to that precinct that can be obtained; provided, no  
2 polling place shall be designated outside the boundaries of the  
3 municipality and of the precinct as provided in this subsection  
4 until such designated polling place is approved by written  
5 order of the district court of the county in which the precinct  
6 is located.

7 D. Upon application of the governing body or  
8 [~~municipal~~] county clerk, the governing board of [~~any~~] a school  
9 district shall permit the use of [~~any~~] school buildings or a  
10 part thereof for the conduct of any municipal election."

11 Section 6. Section 3-8-12 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 20) is amended to read:

13 "3-8-12. ELECTION RESOLUTIONS--NOTICES--CORRECTION OF  
14 ERRORS AND OMISSIONS.--The election resolution, publication of  
15 the election resolution or any notice regarding municipal  
16 election matters may be amended by the [~~municipal~~] county clerk  
17 to correct any ministerial errors or omissions. The corrected  
18 resolution or notice shall be published in the manner that the  
19 original is required to be published as required by law.  
20 However, if publication as required by law cannot be made, then  
21 such notice shall be given as is practicable under the  
22 circumstances in order to best reach those people to whom  
23 notice was intended under the law."

24 Section 7. Section 3-8-14 NMSA 1978 (being Laws 1985,  
25 Chapter 208, Section 22, as amended) is amended to read:

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1           "3-8-14. VOTING MACHINES--ORDERING--PREPARATION--  
2 CERTIFICATION--DELIVERY.--

3           A. If voting machines are to be used, the  
4 [~~municipal~~] county clerk shall [~~order the machines from the~~  
5 ~~county clerk within fifteen days of the adoption of the~~  
6 ~~election resolution, and the county clerk shall~~] supply [such]  
7 the voting machines pursuant to Section 1-9-6 NMSA 1978. The  
8 county shall provide voting machine technicians, voting machine  
9 programming and voting machine transportation. The  
10 municipality shall pay the reasonable fee charged by the county  
11 for such services and the use of the voting machines, but in no  
12 case in an amount [~~which~~] that exceeds the actual cost to the  
13 county pursuant to Section 1-9-12 NMSA 1978.

14           B. If voting machines are to be used, the  
15 [~~municipal~~] county clerk shall [~~order~~] supply at least one  
16 voting machine for every polling place; provided that the  
17 county clerk shall [~~order~~] supply a sufficient number of voting  
18 machines to [~~assure~~] ensure that the eligible voters in that  
19 polling place shall be able to vote in a timely manner.

20           C. Programming of electronic machines shall be  
21 performed under the supervision of the [~~municipal clerk and~~  
22 ~~the~~] county clerk. The machines shall be programmed so that  
23 votes will be counted in accordance with [~~specification~~]  
24 specifications for electronic voting [~~machine~~] machines adopted  
25 by the secretary of state.

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1           D. Immediately upon receipt of the notice of date,  
2 time and place of inspection and certification, the [~~municipal~~]  
3 county clerk shall post such notice in the office of the  
4 [~~municipal~~] county clerk and attempt to telephone the  
5 candidates at the phone number listed on the declaration of  
6 candidacy to give each candidate notice of the date, time and  
7 place of inspection and certification.

8           E. Inspection and certification shall occur not  
9 later than seven days prior to the election and shall be open  
10 to the public. If electronic voting machines are to be used  
11 for absentee voting, inspection and certification shall occur  
12 not later than seven days prior to the beginning of absentee  
13 voting and shall be open to the public.

14           F. At the date, time and place for inspection and  
15 certification, in the presence of [~~the county clerk and~~] those  
16 municipal candidates present, if any, the [~~municipal~~] county  
17 clerk shall:

18                   (1) ensure that the correct ballot face has  
19 been installed on each voting machine, if ballot faces are to  
20 be installed;

21                   (2) test each counter for accuracy by casting  
22 votes upon it until it correctly registers each vote cast; and

23                   (3) test each voting machine to [~~assure~~]  
24 ensure that it has been correctly programmed [~~and~~

25                   (4) ~~inform the county clerk when each machine~~

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1 ~~is satisfactory and ready to be certified].~~

2 G. If ~~[the municipal clerk informs the county clerk~~  
3 ~~that]~~ a machine is satisfactory and ready to be certified:

4 (1) the county clerk shall reset each counter  
5 at zero;

6 (2) the voting machine shall be immediately  
7 sealed with a numbered metal seal so as to prevent operation of  
8 the machine or its registering counters without breaking the  
9 seal;

10 (3) the ~~[municipal]~~ county clerk shall prepare  
11 a certificate in triplicate for each machine that shall:

12 (a) show the serial number of the voting  
13 machine;

14 (b) state that the voting machine has  
15 all of its resettable registering counters set at zero;

16 (c) state that the voting machine has  
17 been tested by voting on each registered counter to prove the  
18 counter is in perfect condition;

19 (d) state that the correct ballot face  
20 has been installed on the voting machine, if ballot faces are  
21 to be installed;

22 (e) show the number of the metal seal  
23 that has sealed the machine; and

24 (f) show the number registered on the  
25 protective counter;

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1 (4) ~~[a copy of the certificate shall be~~  
2 ~~delivered to the county clerk]~~ the original certificate shall  
3 be filed in the office of the ~~[municipal]~~ county clerk and one  
4 copy shall be posted on the voting machine; and

5 (5) if the voting machine requires keys, the  
6 keys to the voting machine shall be enclosed in a sealed  
7 envelope on which shall be written:

8 (a) the number of the precinct and  
9 polling place to which the machine is assigned;

10 (b) the serial number of the voting  
11 machine;

12 (c) the number of the metal seal that  
13 has sealed the voting machine;

14 (d) the number registered on the  
15 protective counter; and

16 (e) across the seal of the envelope, the  
17 signatures of the county clerk ~~[the municipal clerk]~~ and all  
18 candidates present, if any, at the inspection and  
19 certification.

20 H. After certification of the voting machines, if  
21 the voting machines require keys, the county clerk shall ~~[keep~~  
22 ~~the keys to the voting machines in his custody and shall~~  
23 ~~deliver the keys to the municipal clerk when the voting~~  
24 ~~machines are delivered for election. The municipal clerk~~  
25 ~~shall]~~ secure in the office of the ~~[municipal]~~ county clerk all

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1 the envelopes containing the keys to the voting machines until  
2 delivered to the presiding judge of the election.

3 I. An objection to the use of a particular voting  
4 machine shall be filed in the district court within two days  
5 after the machine has been certified. Any objection so filed  
6 shall specify the number of the voting machine objected to and  
7 the reason for the objection. Each voting machine shall be  
8 conclusively presumed to be properly prepared for the election  
9 if it has been certified unless a timely objection has been  
10 filed.

11 J. Voting machines certified in accordance with  
12 this section shall be delivered to the assigned precinct  
13 polling place no earlier than five days prior to the election  
14 and no later than noon on the day prior to the election,  
15 provided that any voting machines to be used for absentee  
16 voting shall be delivered [~~to the municipal clerk~~] no earlier  
17 than five days prior to the beginning of absentee voting and no  
18 later than noon on the day prior to the beginning of absentee  
19 voting in person in the office of the [~~municipal~~] county clerk.

20 K. The [~~municipal~~] county clerk shall refuse to  
21 certify any voting machine that the [~~municipal~~] county clerk  
22 determines is not programmed properly, is not working properly  
23 or will not fairly or accurately record votes. Only voting  
24 machines that have been certified by the [~~municipal~~] county  
25 clerk shall be used in the election."

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1           Section 8. Section 3-8-15 NMSA 1978 (being Laws 1985,  
2 Chapter 208, Section 23, as amended) is amended to read:

3           "3-8-15. EMERGENCY PAPER BALLOTS--WHEN USED--AMOUNT  
4 REQUIRED--SAFEGUARDS.--

5           A. When voting machines are used in an election and  
6 one or more machines becomes disabled so that a voter is unable  
7 to vote for the candidates or the questions of the voter's  
8 choice, or both, and have [~~such~~] the vote correctly recorded by  
9 the voting machine and when no substitute voting machine is  
10 available, then emergency paper ballots shall be used.

11           B. The [~~municipal~~] county clerk shall supply to  
12 each polling place a quantity of emergency paper ballots equal  
13 to ten percent of the total number of qualified electors in the  
14 precinct or consolidated precinct. [~~Such~~] The ballots shall  
15 only be used as allowed in the Municipal Election Code.

16           C. Emergency paper ballots are official ballots and  
17 shall meet the same requirements and safeguards as all other  
18 official ballots."

19           Section 9. Section 3-8-16 NMSA 1978 (being Laws 1985,  
20 Chapter 208, Section 24, as amended) is amended to read:

21           "3-8-16. PAPER BALLOTS IN LIEU OF VOTING MACHINES--  
22 EMERGENCY PAPER BALLOTS--FORM--GENERAL REQUIREMENTS.--As used  
23 in this section, "paper ballots" means paper ballots used in  
24 lieu of voting machines and emergency paper ballots. Paper  
25 ballots shall be in the form prescribed by the [~~municipal~~]

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1 county clerk [~~which~~] that shall conform to the following rules.

2 A. Paper ballots shall:

3 (1) be numbered consecutively beginning with  
4 number one. The number shall be printed in the upper right-  
5 hand corner of the ballot with a diagonal perforated line  
6 appropriately placed so that the portion of the ballot bearing  
7 the number in the upper right-hand corner may be readily and  
8 easily detached from the ballot;

9 (2) be uniform in size;

10 (3) be printed on good quality paper;

11 (4) be printed in plain black type;

12 (5) have all words and phrases printed  
13 correctly and in their proper places; and

14 (6) have district and precinct, if applicable.

15 B. The following heading shall be printed on each  
16 paper ballot used in all municipal elections:

17 "OFFICIAL ELECTION BALLOT

18 Election held . . . . . (insert date)".

19 C. If the election is a regular municipal election,  
20 [~~then~~] the paper ballot shall be prepared consistent with the  
21 requirements of Section 3-8-29 NMSA 1978. In addition, next to  
22 each candidate's name shall appear an empty box to be used when  
23 voting for that candidate. Where space is allowed on a paper  
24 ballot for entering the name of a declared write-in candidate,  
25 that space shall be clearly designated by the use of the

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1 heading "Write-in Candidate". Below the heading shall appear  
2 one line, with a box to the right of the line, for each  
3 individual office holder to be elected. Below the last  
4 candidate's name shall appear any question presented, in the  
5 order designated by the governing body.

6 D. If the election is a special municipal election,  
7 [~~then~~] questions presented shall be placed on the paper ballot  
8 in the order designated by the governing body.

9 E. Next to each question presented on a paper  
10 ballot shall appear two empty boxes, one labeled "FOR" and the  
11 other labeled "AGAINST".

12 F. At the bottom of all paper ballots shall be  
13 printed: "OFFICIAL ELECTION BALLOT", followed by a facsimile  
14 signature of the [~~municipal~~] county clerk."

15 Section 10. Section 3-8-17 NMSA 1978 (being Laws 1985,  
16 Chapter 208, Section 25, as amended) is amended to read:

17 "3-8-17. SAMPLE BALLOTS.--

18 A. At the same time official ballots are printed  
19 for voting with machines or paper ballots, the [~~municipal~~]  
20 county clerk shall cause sample ballots to be printed, which  
21 shall:

22 (1) be printed in both English and Spanish;

23 (2) be printed in a total number equal to at  
24 least five percent of the number of qualified electors in each  
25 precinct or consolidated precinct;

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1 (3) be the same in all respects as the  
2 official ballots, except that they shall be printed on colored  
3 paper and shall not contain the facsimile signature of the  
4 [~~municipal~~] county clerk or any endorsement on the sample  
5 ballot or the back thereof;

6 (4) be marked in large black capital letters,  
7 "SAMPLE BALLOT"; and

8 (5) be made available in reasonable quantities  
9 to all interested persons for distribution to the voters.

10 B. Nothing in this section shall prevent any person  
11 from having printed at [~~his~~] personal expense sample ballots,  
12 of a different color than the official sample ballot, [~~which~~]  
13 that comply with the provisions of this subsection, so long as  
14 no marks, notations, words or other material are added to,  
15 taken from or deface, change or hide the information on or the  
16 appearance of the sample ballot as authorized by the  
17 [~~municipal~~] county clerk."

18 Section 11. Section 3-8-18 NMSA 1978 (being Laws 1985,  
19 Chapter 208, Section 26, as amended) is amended to read:

20 "3-8-18. ELECTION SUPPLIES.--

21 A. If paper ballots are to be used in lieu of  
22 voting machines, [~~then~~] the [~~municipal~~] county clerk shall  
23 order to be printed paper ballots and sample paper ballots no  
24 later than 5:00 p.m. on the fifty-third day preceding the day  
25 of the election. The ballots shall be delivered to the county

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1 clerk not later than the eighth day preceding the day of the  
2 election.

3 B. No later than 5:00 p.m. on the fifty-third day  
4 preceding the day of the election, the [~~municipal~~] county clerk  
5 shall:

6 (1) order absentee ballots;

7 (2) order ballot faces, sample voting machine  
8 ballots and emergency paper ballots, if voting machines are to  
9 be used; and

10 (3) order all other election supplies  
11 necessary for the conduct of the election.

12 C. Absentee ballots, emergency paper ballots,  
13 ballot faces for the machines and sample voting machine ballots  
14 shall be delivered to the [~~municipal~~] county clerk not less  
15 than thirty-five days prior to the day of the election."

16 Section 12. Section 3-8-19 NMSA 1978 (being Laws 1971,  
17 Chapter 306, Section 8, as amended) is amended to read:

18 "3-8-19. PRECINCT BOARDS--APPOINTMENTS--COMPENSATION.--

19 A. In order to qualify as a member of a precinct  
20 board, a person shall:

21 (1) be a [~~resident~~] qualified elector of the  
22 municipality and a resident of the precinct or consolidated  
23 precinct within the jurisdiction of the precinct board.

24 However, if there is a shortage or absence of precinct board  
25 members in certain precincts or consolidated precincts, a

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1 person who is a [~~resident~~] qualified elector of the  
2 municipality and a nonresident of the precinct or consolidated  
3 precinct may be appointed;

4 (2) be able to read and write;

5 (3) have the necessary capacity to carry out  
6 the functions of the office with acceptable skill and dispatch;  
7 and

8 (4) execute the precinct board member's oath  
9 of office.

10 B. No person shall be qualified for appointment or  
11 service on a precinct board if that person is a:

12 (1) candidate for any municipal office;

13 (2) spouse, parent, child, brother or sister  
14 of any candidate to be voted for at the election;

15 (3) sheriff, deputy sheriff, marshal, deputy  
16 marshal or state or municipal [~~police~~man] police officer;

17 (4) spouse, parent, child, brother or sister  
18 of the [~~municipal~~] county clerk or any deputy or assistant  
19 [~~municipal~~] county clerk; or

20 (5) [~~municipal~~] county clerk or deputy or  
21 assistant [~~municipal~~] county clerk.

22 C. Not less than thirty-five days before the day of  
23 the municipal election, the governing body shall appoint a  
24 precinct board for each polling place. The precinct board  
25 shall consist of no fewer than three members. Each board shall

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1 have no fewer than three election judges and no fewer than two  
2 election clerks. Election judges may also be appointed as  
3 election clerks. Not less than two alternates shall be  
4 appointed who shall become either election judges or election  
5 clerks or both as the need arises. On the thirty-fifth day  
6 before the day of the election, the ~~[municipal]~~ county clerk  
7 shall post and maintain in the clerk's office until the day of  
8 the election the names of the election judges, election clerks  
9 and alternates for each polling place. The posting of the  
10 names of the election judges, election clerks and alternates  
11 for each polling place may be proved by an affidavit signed by  
12 the ~~[municipal]~~ county clerk. The ~~[municipal]~~ county clerk  
13 shall, by mail, notify each person appointed, request a written  
14 acceptance and keep a record of all notifications and  
15 acceptances. The notice shall state the date by which the  
16 person must accept the appointment. If any person appointed to  
17 a precinct board, or as an alternate, fails to accept an  
18 appointment within seven days after the notice is sent, the  
19 position shall be deemed vacant and the position shall be  
20 filled as provided in this section.

21 D. ~~[The county clerk shall furnish upon request of~~  
22 ~~the municipal clerk the names and addresses of]~~ Qualified  
23 precinct board members for general elections ~~[and such precinct~~  
24 ~~board members]~~ may be appointed as precinct board members for  
25 municipal elections.

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1           E. The [~~municipal~~] county clerk shall appoint a  
2 qualified elector as a precinct board member to fill any  
3 vacancy that may occur between the day when the list of  
4 precinct board members is posted and the day of the election.  
5 If a vacancy occurs on the day of the election, the precinct  
6 board members present at the polling place may appoint by a  
7 majority vote a qualified elector to fill the vacancy. If the  
8 vacancy was filled after the date of the election school, that  
9 person need not attend an election school in order to validly  
10 serve on the precinct board.

11           F. Members of a precinct board shall be compensated  
12 for their services at the rate provided in Section 1-2-16 NMSA  
13 1978 for the day of the election. The governing body may  
14 authorize payment to alternates who are required by the  
15 precinct board or [~~municipal~~] county clerk to stand by on  
16 election day at the rate of not more than twenty dollars  
17 (\$20.00) for the day of the election.

18           G. Compensation shall be paid within thirty days  
19 following the date of election."

20           Section 13. Section 3-8-20 NMSA 1978 (being Laws 1971,  
21 Chapter 306, Section 9, as amended) is amended to read:

22           "3-8-20. PRECINCT [~~BOARDS~~] BOARD--DUTIES.--

23           A. The precinct board shall:

24                   (1) conduct the municipal election in the  
25 manner provided for the conduct of elections in the Municipal

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1 Election Code; and

2 (2) at the close of the polls, count the votes  
3 cast on each question, if any, and for each candidate, if any,  
4 and perform all duties as required by the Municipal Election  
5 Code.

6 B. A member of the precinct board shall not  
7 disclose the name of any candidate for whom any voter has  
8 voted.

9 C. No person shall serve on a precinct board unless  
10 that person has attended an election school conducted by the  
11 [~~municipal~~] county clerk in the previous four years."

12 Section 14. Section 3-8-21 NMSA 1978 (being Laws 1985,  
13 Chapter 208, Section 29, as amended) is amended to read:

14 "3-8-21. [~~MUNICIPAL~~] COUNTY CLERK--PRECINCT BOARD--  
15 ELECTION SCHOOL.--

16 A. The [~~municipal~~] county clerk shall conduct or  
17 cause to be conducted an election school not less than five  
18 days prior to the election. All major details of the conduct  
19 of elections shall be covered at the school, with special  
20 emphasis given to recent changes in the Municipal Election  
21 Code. The school of instruction shall be open to the public,  
22 with notice published not less than four days prior to the  
23 school.

24 B. Notice of the school shall be mailed to each  
25 precinct board member and alternate not less than seven days

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1 prior to the school.

2 C. Two or more municipalities may jointly conduct a  
3 combined election school.

4 D. The governing body may authorize payment of  
5 mileage to precinct board members who attend the election  
6 school."

7 Section 15. Section 3-8-22 NMSA 1978 (being Laws 1985,  
8 Chapter 208, Section 30, as amended) is amended to read:

9 "3-8-22. CONDUCT OF ELECTION--ELIGIBILITY FOR ASSISTANCE--  
10 ORAL ASSISTANCE FOR LANGUAGE MINORITY VOTERS--AID OR ASSISTANCE  
11 TO VOTER MARKING BALLOT--WHO MAY ASSIST VOTER--TYPE OF  
12 ASSISTANCE.--

13 A. A voter may request assistance in voting only if  
14 ~~[he]~~ the voter is:

- 15 (1) blind;  
16 (2) physically disabled;  
17 (3) unable to read or write; or  
18 (4) a member of a language minority who is  
19 unable to read well enough to exercise the elective franchise.

20 B. When a voter who is eligible for assistance  
21 requires assistance in marking ~~[his]~~ a paper ballot or  
22 recording ~~[his]~~ a vote on a voting machine, the voter shall  
23 announce this fact in an audible tone before receiving ~~[his]~~  
24 the paper ballot or before entering the voting machine.

25 C. The voter's request for assistance shall be

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1 noted next to [~~his~~] the voter's name in the signature roster  
2 and shall be initialed by the presiding judge.

3 D. After noting the voter's request for assistance  
4 in the signature roster, the voter shall be allowed to receive  
5 assistance in marking [~~his~~] a paper ballot or recording [~~his~~] a  
6 vote on a voting machine.

7 E. A person who swears falsely in order to secure  
8 assistance with voting is guilty of perjury.

9 F. If a voter who has requested assistance in  
10 marking [~~his~~] a ballot is blind, has a physical disability, is  
11 unable to read or write or is a member of a language minority  
12 who has requested assistance, [~~he~~] the voter may be accompanied  
13 into the voting machine by a person of [~~his~~] the voter's own  
14 choice; provided that the person shall not be the voter's  
15 employer, an agent of that employer, an officer or agent of the  
16 voter's union or a candidate whose name appears on the ballot  
17 in the election. A member of the precinct board may assist a  
18 voter, if requested to do so by that voter.

19 G. A person who accompanies the voter into the  
20 voting booth or voting machine may assist the voter in marking  
21 and folding [~~his~~] a paper ballot or recording [~~his~~] a vote on  
22 the voting machine. A member of the precinct board who assists  
23 a voter shall not disclose the name of any candidate or  
24 questions for whom any voter voted.

25 H. Oral assistance shall be made available to

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1 assist language minority voters who cannot read sufficiently  
2 well to exercise the elective franchise. "Language minority"  
3 means a person who is [~~an~~] Native American [~~Indian~~] or of  
4 Spanish heritage, and "inability to read well enough to  
5 exercise the elective franchise" means inability to read the  
6 languages in which the ballot is printed or the inability to  
7 understand instructions for operating the voting machine.

8 I. The position of election translator is created.  
9 The election translator shall be an additional member of the  
10 regular precinct board, unless oral assistance to language  
11 minorities can otherwise be rendered by a member of the regular  
12 precinct board. The election translator shall be appointed by  
13 the [~~municipal~~] county clerk in the same manner as other  
14 precinct board members are appointed, except that the  
15 [~~municipal~~] county clerk in appointing Native American [~~Indian~~]  
16 election translators shall seek the advice of the pueblo or  
17 tribal officials residing in that municipality. The election  
18 translator shall take the oath required of precinct board  
19 members and shall meet the same qualifications as other  
20 precinct board members.

21 J. Each [~~municipal~~] county clerk shall compile and  
22 maintain a list of standby election translators to serve in  
23 those precincts on election day when the appointed election  
24 translator is unavailable for such service."

25 Section 16. Section 3-8-23 NMSA 1978 (being Laws 1985,

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1 Chapter 208, Section 31) is amended to read:

2 "3-8-23. MESSENGERS--COMPENSATION.--

3 A. The [~~municipal~~] county clerk may appoint  
4 messengers to deliver ballot boxes, signature rosters, keys,  
5 election supplies and other materials pertaining to the  
6 election.

7 B. Messengers shall be paid mileage as provided in  
8 the Per Diem and Mileage Act each way over the usually traveled  
9 route. The mileage shall be paid within thirty days following  
10 the date of election."

11 Section 17. Section 3-8-26 NMSA 1978 (being Laws 1965,  
12 Chapter 300, Section 14-8-4, as amended) is amended to read:

13 "3-8-26. REGULAR MUNICIPAL ELECTION--PUBLICATION OF  
14 RESOLUTION--CHOICE OF BALLOTS OR VOTING MACHINES.--

15 A. Not earlier than one hundred twelve days or  
16 later than eighty-four days prior to the date of a regular  
17 municipal election, the governing body shall adopt an election  
18 resolution calling for the regular municipal election. The  
19 election resolution shall be published in both English and  
20 Spanish and once within fifteen days of adoption and again not  
21 less than sixty days prior to the election or more than  
22 seventy-five days prior to the election, as provided in  
23 Subsection J of Section 3-1-2 NMSA 1978. In addition, the  
24 election resolution shall be posted in the office of the  
25 [~~municipal~~] county clerk within twenty-four hours from the date

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1 of adoption until the date of the election. For information  
2 purposes and coordination, one copy of the election resolution  
3 shall be mailed within fifteen days of adoption to the  
4 secretary of state [~~and the county clerk of the county in which~~  
5 ~~the municipality is located~~].

6 B. The election resolution shall state the date  
7 when the election will be held, the offices to be filled, the  
8 questions to be submitted to the voters, the date and time of  
9 the closing of the registration books by the county clerk as  
10 required by law, the date and time for filing the declaration  
11 of candidacy, the location of polling places, the date and time  
12 for absentee voting and the consolidation of precincts, if any,  
13 notwithstanding any conflicting provisions of Section 1-3-5  
14 NMSA 1978. Any question to be submitted to the voters in  
15 addition to the election of municipal officers may be included  
16 in the election resolution, but such inclusion shall not  
17 substitute for any additional or separate resolution or  
18 publication thereof as required by law.

19 C. In those municipalities allowed by law to use  
20 paper ballots, the election resolution shall also state whether  
21 paper ballots or voting machines will be used in the election."

22 Section 18. Section 3-8-27 NMSA 1978 (being Laws 1965,  
23 Chapter 300, Section 14-8-8, as amended) is amended to read:

24 "3-8-27. REGULAR MUNICIPAL ELECTION--DECLARATION OF  
25 CANDIDACY--WITHDRAWING NAME FROM BALLOT--PENALTY FOR FALSE

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1 STATEMENT.--

2 A. Candidate filing day shall be between the hours  
3 of 8:00 a.m. and 5:00 p.m. on the fifty-sixth day preceding the  
4 day of election. On candidate filing day, a candidate for  
5 municipal office shall personally appear at the office of the  
6 [~~municipal~~] county clerk to file all documents required by law  
7 in order to cause a person to be certified as a candidate.  
8 Alternatively, on candidate filing day, a person acting solely  
9 on the candidate's behalf, by virtue of a written affidavit of  
10 authorization signed by the candidate, notarized and presented  
11 to the [~~municipal~~] county clerk by such person, shall file in  
12 the office of the [~~municipal~~] county clerk all documents  
13 required by law in order to cause a person to be certified as a  
14 candidate.

15 B. On candidate filing day, each candidate shall  
16 cause to be filed in the office of the [~~municipal~~] county clerk  
17 a declaration of candidacy; a certified copy of the candidate's  
18 current affidavit of voter registration that is on file with  
19 the county clerk [~~which~~] and that has been certified by the  
20 office of the county clerk on a date not earlier than the  
21 adoption of the election resolution; and, in a home-rule or  
22 charter municipality that requires a nominating petition to be  
23 submitted by a candidate for municipal office, a nominating  
24 petition that has the required number of signatures.

25 C. All candidates shall cause their affidavits of

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1 voter registration to show their address as a street address or  
2 rural route number and not as a post office box.

3 D. The [~~municipal~~] county clerk shall provide a  
4 form for the declaration of candidacy and shall accept only  
5 those declarations of candidacy [~~which~~] that contain:

6 (1) the identical name and the identical  
7 resident street address as shown on the affidavit of  
8 registration of the candidate submitted with the declaration of  
9 candidacy;

10 (2) the office and term to which the candidate  
11 seeks election and district designation, if appropriate;

12 (3) a statement that the candidate is eligible  
13 and legally qualified to hold the office for which the  
14 candidate is filing;

15 (4) a statement that the candidate has not  
16 been convicted of a felony or, if the candidate has been  
17 convicted of a felony, a statement that the candidate's  
18 elective franchise has been restored;

19 (5) a statement that the candidate or the  
20 candidate's authorized representative shall personally appear  
21 at the office of the [~~municipal~~] county clerk during normal  
22 business hours on the fifty-fourth day before the election to  
23 ascertain whether the [~~municipal~~] county clerk has certified  
24 the declaration of candidacy as valid;

25 (6) a telephone number at which the candidate

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1 or the candidate's authorized representative can be reached for  
2 purposes of giving telephone notice;

3 (7) a statement to the effect that the  
4 declaration of candidacy is an affidavit under oath and that  
5 any false statement knowingly made in the declaration of  
6 candidacy constitutes a fourth degree felony under the laws of  
7 New Mexico; and

8 (8) the notarized signature of the candidate  
9 on the declaration of candidacy.

10 E. The [~~municipal~~] county clerk shall not accept a  
11 declaration of candidacy for more than one municipal elected  
12 office per candidate, so that each candidate declares for only  
13 one municipal elected office.

14 F. Once filed, the declaration of candidacy is a  
15 public record.

16 G. Not later than the fifty-fifth day preceding the  
17 day of the election, the [~~municipal~~] county clerk shall  
18 determine whether the declaration of candidacy shall be  
19 certified. In order to be certified as a candidate, the  
20 documents submitted to the [~~municipal~~] county clerk shall prove  
21 that the individual is a qualified elector as defined in  
22 Subsection K of Section 3-1-2 NMSA 1978 and, if appropriate,  
23 that the individual resides in and is registered to vote in the  
24 municipal election district from which the individual seeks  
25 election. In the event that an individual fails to submit to

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1 the ~~[municipal]~~ county clerk on candidate filing day the  
2 documents listed in Subsection B of this section in the form  
3 and with the contents as required by this section, the  
4 ~~[municipal]~~ county clerk shall not certify that individual as a  
5 candidate for municipal office.

6 H. The ~~[municipal]~~ county clerk shall post in the  
7 county clerk's office a list of the names of those individuals  
8 who have been certified as candidates. The ~~[municipal]~~ county  
9 clerk shall also post in the county clerk's office the names of  
10 those individuals who have not been certified as candidates,  
11 along with the reasons therefor. The posting shall occur no  
12 later than 9:00 a.m. on the fifty-fourth day preceding the  
13 election.

14 I. Not later than 5:00 p.m. on the forty-ninth day  
15 before the day of the election, a candidate for municipal  
16 office may file an affidavit on the form provided by the  
17 ~~[municipal]~~ county clerk in the office of the ~~[municipal]~~  
18 county clerk stating that ~~[he]~~ the candidate is no longer a  
19 candidate for municipal office. A ~~[municipal]~~ county clerk  
20 shall not place on the ballot the name of any person who has  
21 filed an affidavit as provided in this subsection.

22 J. Not later than 10:00 a.m. on the forty-eighth  
23 day preceding the election, the ~~[municipal]~~ county clerk shall  
24 confirm with the printer on contract with the municipality and  
25 the county clerk the names of the candidates and their position

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1 on the ballot.

2 K. Any person knowingly making a false statement in  
3 the declaration of candidacy is guilty of a fourth degree  
4 felony.

5 L. No person shall be elected to municipal office  
6 as a write-in candidate unless that person has been certified  
7 as a declared write-in candidate by the [~~municipal~~] county  
8 clerk, as follows:

9 (1) write-in candidates filing day shall be on  
10 the forty-second day preceding the election between the hours  
11 of 8:00 a.m. and 5:00 p.m.;

12 (2) write-in candidates shall file a  
13 declaration of write-in candidacy with the same documents and  
14 satisfy the same requirements as established in this section  
15 for candidates;

16 (3) the [~~municipal~~] county clerk shall, on the  
17 forty-first day preceding the election, certify those  
18 individuals who have satisfied the requirements of this section  
19 as declared write-in candidates;

20 (4) not later than 9:00 a.m. on the fortieth  
21 day preceding the election, the [~~municipal~~] county clerk  
22 shall, in the office of the [~~municipal~~] county clerk:

23 (a) post the names of those individuals  
24 who have been certified as declared write-in candidates; and

25 (b) post the names of those individuals

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1 who have not been certified as declared write-in candidates  
2 along with the reasons [~~therefor~~]; and

3 (5) not later than 5:00 p.m. on the twenty-  
4 eighth day preceding the election, a declared write-in  
5 candidate may file an affidavit that [~~he~~] the candidate is no  
6 longer a write-in candidate for municipal office. In the event  
7 that a declared write-in candidate files an affidavit of  
8 withdrawal, votes for that candidate shall not be counted and  
9 canvassed."

10 Section 19. Section 3-8-29 NMSA 1978 (being Laws 1985,  
11 Chapter 208, Section 37, as amended) is amended to read:

12 "3-8-29. REGULAR MUNICIPAL ELECTION--BALLOTS.--

13 A. At 5:01 p.m. on the fifty-fourth day preceding  
14 the election, in the presence of the certified candidates or  
15 their authorized representatives who desire to be present, the  
16 [~~municipal~~] county clerk shall administer an impartial and fair  
17 drawing by lot to determine the order in which the candidates  
18 for each office shall be listed on the ballot. If a candidate  
19 or an authorized representative fails to appear, then the  
20 [~~municipal~~] county clerk shall draw a lot for the absent  
21 candidate.

22 B. The ballot shall first set forth candidates  
23 running for executive office (mayor), if any; then candidates  
24 running for legislative office (councilors, trustees,  
25 commissioners), if any; and finally candidates running for

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1 judicial office (municipal judge), if any. For each office to  
2 be filled, the ballot shall contain:

3 (1) the office to be filled and its term;

4 (2) the names of the candidates running for  
5 office exactly as shown on the candidate's declaration of  
6 candidacy and in the order determined by the drawing by lot;

7 (3) a space for a qualified elector to write  
8 in the name of one declared write-in candidate, if any, per  
9 position to be filled; and

10 (4) any necessary reference to districts,  
11 positions or other similar official designations for office.

12 C. The only reference to a candidate for office to  
13 be placed on a ballot is the candidate's name as it appears on  
14 the candidate's declaration of candidacy. No ticket  
15 designations or party affiliations shall be shown on the  
16 ballot. Municipal elections shall be nonpartisan.

17 D. If it appears to the [~~municipal~~] county clerk  
18 that the name of two or more candidates for any office are the  
19 same or so similar as to tend to confuse the voter as to the  
20 candidates' identities, the occupation and address of each such  
21 candidate shall be printed immediately under the candidate's  
22 name on the ballot.

23 E. The [~~municipal~~] county clerk shall place on the  
24 ballot any question in the order designated by the governing  
25 body."

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1 Section 20. Section 3-8-30 NMSA 1978 (being Laws 1965,  
2 Chapter 300, Section 14-8-9, as amended) is amended to read:

3 "3-8-30. REGULAR MUNICIPAL ELECTION--PUBLICATION OF NAMES  
4 OF CANDIDATES AND OTHER ELECTION DATA.--The [~~municipal~~] county  
5 clerk shall publish the names of the candidates for each office  
6 to be filled, the order their names will appear on the ballot,  
7 the location and address of the polling place for each precinct  
8 and the names of all precinct board members and alternates and  
9 the precincts to which they are appointed. If districted, the  
10 [~~municipal~~] county clerk shall also publish the precincts or  
11 portion of precincts in each election district. Publication  
12 shall be once each week for two successive weeks, with the  
13 first publication not more than twenty-eight days prior to the  
14 day of the election and the last publication not less than two  
15 days before the day of election. This material shall also be  
16 posted in the office of the [~~municipal~~] county clerk from the  
17 day it is first published until the day of the election."

18 Section 21. Section 3-8-31 NMSA 1978 (being Laws 1971,  
19 Chapter 306, Section 10, as amended) is amended to read:

20 "3-8-31. REGULAR MUNICIPAL ELECTION--CHALLENGERS--  
21 WATCHERS--OBSERVERS.--

22 A. Upon petition filed with the [~~municipal~~] county  
23 clerk by an unopposed candidate or by both candidates for a  
24 municipal office, if only two candidates are running for the  
25 office, or by a majority of the candidates for a municipal

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1 office, if more than two candidates are running for the office,  
2 those candidates may:

3 (1) appoint one person as a challenger and one  
4 alternate for each polling place in the municipal election; and

5 (2) appoint one person as a watcher and one  
6 alternate for each polling place in the municipal election.

7 B. The petition appointing a challenger and watcher  
8 and alternates shall be filed not later than 5:00 p.m. on the  
9 fourth day preceding the election.

10 C. Upon receipt of the petition, the [~~municipal~~]  
11 county clerk shall verify whether the challengers, watchers and  
12 alternates are properly qualified pursuant to Subsection D of  
13 this section. Not later than 3:00 p.m. on the day prior to the  
14 election, the [~~municipal~~] county clerk shall prepare official  
15 identification badges for those challengers, watchers and  
16 alternates who are properly qualified. Such identification  
17 badges shall be signed by the [~~municipal~~] county clerk and  
18 contain the name of the challenger, watcher or alternate and  
19 state that person's title and the polling place where such  
20 person serves. Challengers, watchers and alternates shall be  
21 responsible to obtain their identification badges from the  
22 office of the [~~municipal~~] county clerk prior to the opening of  
23 the polls on election day.

24 D. A challenger, watcher or alternate shall  
25 function only at a polling place that serves the precinct

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1 within which such challenger, watcher or alternate resides. No  
2 sheriff, deputy sheriff, marshal, deputy marshal, municipal or  
3 state police officer, candidate or any person who is a spouse,  
4 parent, child, brother or sister of a candidate to be voted for  
5 at the election or any [~~municipal~~] county clerk, deputy county  
6 clerk or assistant shall serve as a challenger, watcher or  
7 alternate. No person shall serve as a challenger or watcher  
8 unless that person is a qualified elector of the municipality.

9 E. Upon presentation of their official  
10 identification badges to the precinct board, challengers,  
11 watchers and alternates shall be permitted to be present at the  
12 polling place from the time the precinct board convenes at the  
13 polling place until the completion of the counting and tallying  
14 of the ballots after the polls close.

15 F. Challengers, watchers and alternates shall wear  
16 their official identification badges at all times while they  
17 are present in the polling place. They shall not wear any  
18 other form of identification or any pins or other  
19 identification associated with any candidate, group of  
20 candidates or any question presented at the election.

21 G. Challengers, watchers and alternates shall not:

22 (1) be permitted to perform any duty of a  
23 precinct board member;

24 (2) handle the ballots, signature rosters,  
25 absentee voter lists or voting machines;

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1 (3) take any part in the tallying or counting  
2 of the ballots; or

3 (4) interfere with the orderly conduct of the  
4 election.

5 H. If a challenger, watcher or alternate is wearing  
6 [~~his~~] an official identification badge, it is a petty  
7 misdemeanor to:

8 (1) deny [~~him~~] that person the right to be  
9 present at the polling place;

10 (2) deny [~~him~~] that person the right to  
11 examine voting machines as authorized by law;

12 (3) deny a challenger or alternate challenger  
13 the right to challenge voters pursuant to Section 3-8-43 NMSA  
14 1978 and inspect the signature rosters; or

15 (4) deny [~~him~~] the challenger, watcher or  
16 alternate the right to witness the counting and tallying of  
17 ballots.

18 I. A challenger or alternate challenger, for the  
19 purposes of interposing challenges pursuant to Section 3-8-43  
20 NMSA 1978, shall be permitted to:

21 (1) inspect the voter registration list;

22 (2) inspect the signature rosters or absentee  
23 voter lists to determine whether entries are being made in  
24 accordance with law;

25 (3) examine each voting machine before the

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1 polls are opened to compare the number on the metal seal and  
2 the numbers on the counters with the numbers on the key  
3 envelope, to see that all ballot labels are in their proper  
4 places and to see that the voting machine is ready for voting  
5 at the opening of the polls;

6 (4) make written memoranda of any action or  
7 omission on the part of any member of the precinct board and  
8 preserve such memoranda for future use; and

9 (5) witness the counting and tallying of the  
10 ballots.

11 J. A watcher or alternate watcher shall be  
12 permitted to:

13 (1) observe the election to [~~assure~~] ensure  
14 that it is conducted in accordance with law;

15 (2) examine any voting machine used at the  
16 polling place in the same manner that challengers may examine  
17 voting machines;

18 (3) make written memoranda of any action or  
19 omission on the part of any member of the precinct board and  
20 preserve such memoranda for future use; and

21 (4) witness the counting and tallying of  
22 ballots.

23 K. The governing body of a municipality may, at its  
24 discretion, appoint one qualified elector for each polling  
25 place to serve as an observer of the election. The governing

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1 body shall make such appointment not later than 3:00 p.m. on  
2 the day before the election and shall notify the [~~municipal~~  
3 county clerk of such appointment. The [~~municipal~~] county clerk  
4 shall issue identification badges to all observers. An  
5 observer shall have no powers other than to observe the conduct  
6 of the election and observe the counting and tallying and  
7 report to the governing body."

8 Section 22. Section 3-8-32 NMSA 1978 (being Laws 1965,  
9 Chapter 300, Section 14-8-13, as amended) is amended to read:

10 "3-8-32. REGULAR MUNICIPAL ELECTION--PLURALITY OF VOTES  
11 CAST REQUIRED FOR ELECTION.--

12 A. The candidate who receives a plurality of the  
13 votes cast for a designated office and term and who is  
14 qualified to hold office shall be elected to the office for the  
15 term designated.

16 B. If more than one candidate is to be elected to  
17 an office and term or the candidates are not running for a  
18 designated term, the candidates, in the number to be elected,  
19 receiving the largest pluralities shall be elected.

20 C. No candidate shall take office if the candidate  
21 has not remained legally qualified to hold office from the time  
22 the candidate was certified by the [~~municipal~~] county clerk as  
23 a candidate or declared write-in candidate through the time at  
24 which the candidate is to take office."

25 Section 23. Section 3-8-33 NMSA 1978 (being Laws 1985,

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1 Chapter 208, Section 41, as amended) is amended to read:

2 "3-8-33. REGULAR MUNICIPAL ELECTION--CERTIFICATES OF  
3 ELECTION--QUALIFICATION OF OFFICIAL--TAKING OFFICE.--

4 A. After canvass and not later than 5:00 p.m. on  
5 the sixth day following the election, the [~~municipal~~] county  
6 clerk shall prepare a certificate of election for each  
7 candidate elected and shall post, in the office of the  
8 [~~municipal~~] county clerk, the election results and the date,  
9 time and place where the oath of office will be administered.

10 B. Each candidate elected shall personally appear  
11 before the [~~municipal~~] county clerk after canvass and after the  
12 [~~municipal~~] county clerk has prepared the certificate of  
13 election and not later than 7:00 p.m. on the sixth day  
14 following the election. When the candidate appears, the  
15 [~~municipal~~] county clerk shall deliver the certificate of  
16 election to the candidate and the candidate shall sign a  
17 written statement acknowledging receipt of the certificate of  
18 election and acknowledging that the candidate is legally  
19 qualified to hold office. The [~~municipal~~] county clerk shall  
20 file a copy of the certificate of election and the written  
21 receipt and qualification statement in the official minute book  
22 of the municipality. Not later than 7:00 p.m. on the sixth day  
23 following the election, the [~~municipal~~] county clerk or any  
24 other person allowed by law to administer oaths shall  
25 administer the oath of office to each candidate who has

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1 provided the written receipt and qualification statement to the  
2 [~~municipal~~] county clerk. Upon taking the oath of office, the  
3 candidate shall be deemed to have taken office.

4 C. If a candidate fails to appear as required in  
5 Subsection B of this section, [~~then~~] the candidate or the  
6 candidate's authorized personal representative shall file an  
7 affidavit with the [~~municipal~~] county clerk, not later than  
8 5:00 p.m. on the tenth day following the election, stating that  
9 the candidate was unable to personally appear before the  
10 [~~municipal~~] county clerk as required by law and the reasons  
11 [~~therefor~~]. If such an affidavit is timely filed, the  
12 candidate shall appear before the [~~municipal~~] county clerk not  
13 later than 5:00 p.m. on the thirtieth day after the election to  
14 receive the election certificate, file the receipt and  
15 qualification statement and take the oath of office.

16 D. If a candidate fails to comply with Subsection B  
17 of this section, [~~then~~] the [~~municipal~~] county clerk shall  
18 administer an impartial drawing by lot to determine which  
19 person shall remain in office until the candidate takes office  
20 or the office is declared vacant.

21 E. If a candidate fails to comply with [~~Subsection~~]  
22 Subsections B and [~~Subsection~~] C of this section, [~~then~~] the  
23 governing body shall declare by resolution that the office is  
24 vacant.

25 F. After each elected candidate has taken the oath

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1 of office, the [~~municipal~~] county clerk shall mail, within five  
2 days [~~thereof~~], a copy of the certificate of election to the  
3 [~~county clerk and the~~] secretary of state for information  
4 purposes.

5 G. An elected official shall remain in office as  
6 provided in this section until the official's successor has  
7 taken office as provided in this section.

8 H. The newly elected officials of the governing  
9 body who have taken office, the elected officials of the  
10 governing body whose terms have not expired and the elected  
11 officials of the governing body whose successors have not taken  
12 office shall meet not earlier than the sixth day after the  
13 election or later than the twenty-first day after the election  
14 for an organizational meeting. Such a meeting may be a special  
15 meeting or a regular meeting of the governing body."

16 Section 24. Section 3-8-35 NMSA 1978 (being Laws 1965,  
17 Chapter 300, Section 14-8-2, as amended) is amended to read:

18 "3-8-35. SPECIAL ELECTION--GIVING NOTICE.--

19 A. When a special election is called or required by  
20 law, an election resolution shall be adopted by the governing  
21 body calling for the election, and the election resolution  
22 shall be published once each week for four consecutive weeks.  
23 The first publication of the election resolution shall be  
24 between fifty and sixty days before the day of the election.  
25 The election resolution shall be posted in the office of the

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1     ~~[municipal]~~ county clerk within twenty-four hours from the date  
2     of adoption until the date of the election. For information  
3     purposes and coordination, one copy of the election resolution  
4     shall be mailed to the secretary of state ~~[and the county clerk~~  
5     ~~of the county in which the municipality is located]~~.

6             B. The election resolution shall state the purpose  
7     for calling the election, the date of the election, the date  
8     and time of the closing of the registration books by the county  
9     clerk as required by law, the questions to be submitted to the  
10    voters, the location of polling places, the consolidation of  
11    precincts, if any, and, regarding those municipalities  
12    authorized by law to use paper ballots in lieu of voting  
13    machines, if paper ballots or voting machines will be used in  
14    the election."

15            Section 25. Section 3-8-36 NMSA 1978 (being Laws 1985,  
16    Chapter 208, Section 44, as amended) is amended to read:

17            "3-8-36. SPECIAL ELECTIONS--PUBLICATION OF ELECTION  
18    DATA.--The ~~[municipal]~~ county clerk shall publish the location  
19    or address of the polling place for each precinct or  
20    consolidated precinct and the names of all precinct board  
21    members and alternates and the precincts to which they are  
22    appointed. Publication shall be once each week for two  
23    successive weeks. The first publication shall be not more than  
24    twenty-eight days before the day of election and the last  
25    publication shall be not less than two days prior to the

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1 election. This material shall also be posted in the office of  
2 the [~~municipal~~] county clerk from the day it is first published  
3 until the day of the election."

4 Section 26. Section 3-8-38 NMSA 1978 (being Laws 1985,  
5 Chapter 208, Section 46, as amended) is amended to read:

6 "3-8-38. CONDUCT OF ELECTION--SWEARING IN--DELIVERY OF  
7 SUPPLIES--OPENING AND CLOSING OF POLLS--PRECINCT BOARD  
8 ATTENDANCE.--

9 A. Not earlier than noon on the day before the  
10 election and not later than one hour prior to the opening of  
11 the polls, the [~~municipal~~] county clerk shall swear in the  
12 presiding judge and cause the election supplies, voting machine  
13 keys, ballot box, ballot box keys and other election materials  
14 to be delivered to the presiding judge.

15 B. The presiding judge shall cause all materials  
16 delivered to [~~him~~] the presiding judge to be delivered to the  
17 polling place not later than 6:00 a.m. on election day.

18 C. The presiding judge shall swear in all precinct  
19 board members upon their arrival at the polling place.

20 D. Polls shall be opened at 7:00 a.m. on the date of  
21 the election and shall be closed at 7:00 p.m. on the same day.

22 E. Precinct board members shall present themselves  
23 at the polling place not later than 6:00 a.m. on the day of the  
24 election and shall remain at the polling place until all duties  
25 of the precinct board are properly completed."

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1 Section 27. Section 3-8-40 NMSA 1978 (being Laws 1985,  
2 Chapter 208, Section 48, as amended) is amended to read:

3 "3-8-40. CONDUCT OF ELECTION--PERSONS NOT PERMITTED TO  
4 VOTE--CERTIFICATE VOTING--FRAUDULENT AND DOUBLE VOTING.--

5 A. No person shall vote in a municipal special or  
6 regular election unless that person is a qualified elector and  
7 [~~he~~] has appeared to vote at the polling place in the precinct  
8 or consolidated precinct that encompasses [~~his~~] the qualified  
9 elector's place of residence as shown on the signature roster.

10 B. Notwithstanding the provisions of Subsection A of  
11 this section, a person shall be permitted to vote even though  
12 that person's name cannot be found in the signature roster,  
13 provided:

14 (1) [~~his~~] the person's residence is within the  
15 boundaries of the municipality and within the boundaries of the  
16 precinct and the district, if applicable, in which [~~he~~] the  
17 person offers to vote;

18 (2) [~~his~~] the person's name is not listed as  
19 having been issued an absentee ballot;

20 (3) [~~he~~] the person presents a certificate  
21 bearing the seal and signature of the county clerk stating that  
22 [~~his~~] an affidavit of the person's registration is on file at  
23 the county clerk's office, that [~~he~~] the person has not been  
24 purged from the voter rolls and that [~~he~~] the person shall be  
25 permitted to vote in the precinct and election specified

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1 [therein] in the certificate; provided that such authorization  
2 shall not be given orally by the county clerk; and

3 (4) [he] the person executes a statement  
4 swearing or affirming [~~to the best of his knowledge~~] that [he]  
5 the person is a qualified elector resident of the municipality,  
6 currently registered and eligible to vote in that precinct and  
7 has not cast a ballot or voted in the election.

8 C. Upon compliance with the requirements of  
9 Subsection B of this section, the election judge shall cause the  
10 election clerks to:

11 (1) write the person's name and address, as  
12 shown on the certificate, in the signature roster under the  
13 heading for name and address in the first blank space  
14 immediately below the last name and address appearing in the  
15 signature roster;

16 (2) insert the person's ballot number or voter  
17 number as shown on the public counter of the voting machine on  
18 the certificate and on [his] the person's executed sworn  
19 statement;

20 (3) retain the completed certificate and the  
21 executed sworn statement, which shall be returned to the  
22 [~~municipal~~] county clerk with the election returns; and

23 (4) comply with all relevant requirements of  
24 Section 3-8-41 NMSA 1978.

25 D. After canvass, the [~~municipal~~] county clerk

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1 shall [~~in writing notify the county clerk of~~] record the names  
2 of all individuals voting on certificates.

3 E. A person who knowingly executes a false statement  
4 required by Paragraph (4) of Subsection B of this section is  
5 guilty of perjury as provided in the Criminal Code, and voting  
6 on the basis of such falsely executed statement constitutes  
7 fraudulent voting.

8 F. A person not entitled to vote who fraudulently  
9 votes or a person who votes or offers to vote more than once at  
10 any election is guilty of a fourth degree felony."

11 Section 28. Section 3-8-46 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 54, as amended) is amended to read:

13 "3-8-46. CONDUCT OF ELECTIONS--CLOSING POLLS--LOCKING  
14 VOTING MACHINES--OPENING VOTING MACHINES--VERIFICATION OF  
15 VOTES--ADMITTANCE OF WATCHERS AND CANDIDATES--PROCLAMATION OF  
16 RESULTS--COMPLETION OF LOCKING--DURATION OF LOCKING AND  
17 SEALING.--

18 A. When the last person has voted, the precinct  
19 board, in the presence of all persons lawfully permitted to be  
20 present, shall immediately lock and seal the voting machine  
21 against further voting. The precinct board shall release the  
22 machine-printed returns from the machine. The precinct board  
23 shall then sign a certificate stating that the machine was  
24 locked and sealed; giving the exact time; stating the number of  
25 voters shown on the public counters, which shall be the total

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1 number of votes cast on the machine in that precinct; stating  
2 the number on the seal; and stating the number registered on the  
3 protective counter.

4 B. The precinct board shall verify that the counter  
5 settings registered on the machine-printed returns are legible.  
6 The machine-printed returns shall show the number of votes cast  
7 for each candidate and the number of votes cast for and against  
8 any other question submitted, and the return shall be signed by  
9 each member of the precinct board and the challengers and  
10 watchers, if there be such.

11 C. If the machine-printed returns are not legible,  
12 or if the precinct officials are unable to obtain the returns  
13 from the voting machine, the precinct officials shall call the  
14 [~~municipal clerk, who shall immediately contact the~~] county  
15 clerk, who shall dispatch a voting machine technician to that  
16 polling place to help the precinct officials obtain the returns  
17 from the voting machine.

18 D. A write-in vote shall be cast by writing in the  
19 name of a declared write-in candidate on the ballot or, on  
20 voting machines, write-ins shall be written in the slot provided  
21 for each designated office. A write-in vote shall be counted  
22 and canvassed only if:

23 (1) the name written in is the name of a  
24 declared write-in candidate and shows two initials and last  
25 name; first name, middle initial or name and last name; first

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1 and last name; or the full name as it appears on the declaration  
2 of write-in candidacy of the declared write-in candidate and  
3 misspellings of the above combinations that can be reasonably  
4 determined by a majority of the members of the precinct board to  
5 identify the declared write-in candidate;

6 (2) the name is written in the proper slot on  
7 the voting machine or on the proper line for write-in votes  
8 provided on an absentee ballot, emergency paper ballot or paper  
9 ballot used in lieu of voting machines;

10 (3) the name written in is not a vote for a  
11 person who is on the ballot for that office; and

12 (4) the name written in is not imprinted by  
13 rubber stamp or similar device or by the use of preprinted  
14 stickers or labels.

15 E. Only the members of the precinct board,  
16 candidates or their representatives, representatives of the news  
17 media, certified challengers, watchers and observers and the  
18 [~~municipal~~] county clerk may be present while the votes are  
19 being counted and tallied. Only members of the precinct board  
20 shall handle ballots, machine-printed returns and signature  
21 rosters or take part in the counting and tallying.

22 F. The proclamation of the results of the votes cast  
23 shall be distinctly announced by an election judge who shall  
24 read the name of each candidate and the total number of votes  
25 cast for each candidate shown on the printed returns. An

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1 election judge shall also read the total number of votes cast  
2 for and against each question submitted. During the  
3 proclamation, ample opportunity shall be given to any person  
4 lawfully present to compare the result so proclaimed with the  
5 printed returns. The precinct board may make corrections then  
6 and there.

7 G. When the precinct board is satisfied that the  
8 election results have been correctly tallied, an election judge  
9 shall complete a separate election return certificate in  
10 quadruplicate on which is recorded the total number of votes  
11 cast in that polling place for each candidate and for and  
12 against each question. The certificate shall be signed by all  
13 the members of the precinct board. One copy shall be posted at  
14 the door of the polling place, one copy mailed to the district  
15 court in the envelope provided, one copy returned to the  
16 [~~municipal~~] county clerk to be used as unofficial returns and  
17 the original returned to the [~~municipal~~] county clerk in the  
18 envelope provided.

19 H. Before adjourning, the precinct board shall  
20 complete the locking procedures on the voting machine.

21 I. On the voting machine, the machine return sheet  
22 is the official vote tally for that machine and the separate  
23 election return certificate is the official vote tally for that  
24 precinct or consolidated precinct.

25 J. If in the district court's opinion a contest is

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1 likely to develop, the court may order a voting machine to  
2 remain locked and sealed for such time as it deems necessary.

3 K. The county clerk shall break the seal for  
4 purposes of lawful investigation when ordered to do so by a  
5 court of competent jurisdiction. When the investigation is  
6 completed, the voting machine shall again be sealed and across  
7 the envelope containing the keys shall be written the signature  
8 of the county clerk, unless other provisions for the use of the  
9 voting machine are ordered by the court."

10 Section 29. Section 3-8-47 NMSA 1978 (being Laws 1985,  
11 Chapter 208, Section 55, as amended) is amended to read:

12 "3-8-47. CONDUCT OF ELECTIONS--DISPOSITION OF SIGNATURE  
13 ROSTER--MACHINE-PRINTED RETURNS--BALLOT BOXES--ELECTION RETURN  
14 CERTIFICATE--AFFIDAVITS--OTHER ELECTION MATERIALS.--

15 A. After all certificates have been executed, the  
16 precinct board shall place one copy of the signature roster and  
17 one copy of the machine-printed returns in the stamped,  
18 addressed envelope provided for that purpose by the [~~municipal~~]  
19 county clerk and immediately mail it to the district court.

20 B. The following election returns and materials  
21 shall not be placed in the ballot box and shall be returned by  
22 the precinct board to the [~~municipal~~] county clerk in the  
23 envelope or other container provided by the [~~municipal~~] county  
24 clerk for [~~such~~] that purpose:

- 25 (1) all ballot box keys;

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- 1 (2) one signature roster;  
2 (3) one voter registration list;  
3 (4) the election returns certificate;  
4 (5) one copy of the machine-printed returns;  
5 (6) a machine cartridge for any electronic  
6 marksense voting machine; and  
7 (7) voting machine permits.

8 C. The locked ballot box containing any paper  
9 ballot cast in the election, election returns, all unused  
10 election supplies and all material listed in Subsection B of  
11 this section shall be returned by the precinct board to the  
12 [~~municipal~~] county clerk within twenty-four hours after the  
13 polls close.

14 D. After receipt of ballot boxes and election  
15 returns and materials but not later than twenty-four hours  
16 after the polls close, the [~~municipal~~] county clerk shall  
17 ascertain whether the locked ballot box and all the election  
18 returns and materials enumerated in Subsection B of this  
19 section have been returned to the [~~municipal~~] county clerk as  
20 provided in Subsection C of this section. If the locked ballot  
21 box or all such election returns and materials are not timely  
22 returned by each precinct board, the [~~municipal~~] county clerk  
23 shall immediately issue a summons requiring the delinquent  
24 precinct board to appear and produce the missing ballot box or  
25 election returns or materials within twenty-four hours. The

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1 summons shall be served by a sheriff or state police officer  
2 without cost to the municipality, and the members of the  
3 precinct board shall not be paid for their service on election  
4 day unless the delay was unavoidable. If delivery pursuant to  
5 the summons is not timely made, the vote in the precinct shall  
6 not be canvassed or made a part of the final election results  
7 except upon order of the district court after finding that the  
8 delay in the delivery of materials was due to forces beyond the  
9 control of the precinct board.

10 E. Once the ballot box is locked, it shall not be  
11 opened prior to canvassing by the [~~municipal~~] county clerk."

12 Section 30. Section 3-8-50 NMSA 1978 (being Laws 1985,  
13 Chapter 208, Section 58) is amended to read:

14 "3-8-50. CONDUCT OF ELECTION--EMERGENCY PAPER BALLOTS--  
15 PAPER BALLOTS--PROCEDURE AFTER MARKING--DELIVERY OF TWO OR MORE  
16 BALLOTS--PERSON AUTHORIZED TO RECEIVE BALLOTS--SPOILED OR  
17 DEFACED BALLOTS.--

18 A. After marking and preparing the paper ballot,  
19 the person voting:

20 (1) shall not show it to any person in such a  
21 way as to reveal its contents; and

22 (2) shall deliver it to an election judge who  
23 shall then remove any visible number on the ballot, hand the  
24 detached number to the person voting and deposit the paper  
25 ballot in the ballot box in the presence of the person voting.

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1           B. Only an election judge shall receive a ballot  
2 from a person voting. No person shall examine or solicit a  
3 person to reveal or show the contents of [~~his~~] the person's  
4 paper ballot.

5           C. The election judge shall not deposit in the  
6 ballot box any paper ballot from which the slip containing the  
7 number of the paper ballot has not been removed by the election  
8 judge and handed to the person voting.

9           D. A person who accidentally spoils or erroneously  
10 prepares the ballot may return the spoiled or erroneously  
11 prepared ballot to the election judge and receive a new ballot.

12           E. The election judge in delivering the new ballot  
13 shall announce the name of the person voting in an audible tone  
14 and the number of the new ballot.

15           F. Upon the announcement of the election judge, the  
16 election clerks shall cross out the number of the spoiled or  
17 erroneously prepared ballot in the signature roster with a  
18 single line and shall insert in lieu thereof the number of the  
19 new ballot.

20           G. The election judge shall mark the spoiled or  
21 erroneously prepared ballot with the word "SPOILED" and shall  
22 place it in a separate envelope marked "SPOILED BALLOTS", which  
23 shall be returned to the [~~municipal~~] county clerk.

24           H. Any person who knowingly hands to the election  
25 judge two or more ballots folded together is guilty of a fourth

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1 degree felony."

2 Section 31. Section 3-8-51 NMSA 1978 (being Laws 1985,  
3 Chapter 208, Section 59, as amended) is amended to read:

4 "3-8-51. CONDUCT OF ELECTION--EMERGENCY PAPER BALLOTS--  
5 PAPER BALLOTS--UNUSED BALLOTS--DESTRUCTION OF UNUSED  
6 BALLOTS--COUNTING AND TALLYING.--

7 A. Immediately upon closing of the polls, the  
8 election judge shall prepare a certificate of destruction  
9 [which] that shall state the number of the last ballot [which]  
10 that was used for voting, the numbers of the ballots that were  
11 destroyed and the fact that all unused ballots were destroyed.

12 B. Immediately after preparation of the certificate  
13 of destruction and before any ballot box is unlocked, the  
14 precinct board shall destroy all unused ballots in the presence  
15 of the candidates, if present, the [~~municipal~~] county clerk, if  
16 present, certified challengers and watchers, if any, and  
17 representatives of the news media, if any.

18 C. On the day of the election, immediately upon the  
19 arrival of the hour when the polls are required by law to be  
20 closed, the [~~municipal~~] county clerk shall publicly, in the  
21 county clerk's office, proceed to destroy every unused ballot  
22 that remains in the county clerk's control and make and file an  
23 affidavit in writing as to the number of ballots so destroyed.

24 D. The precinct board shall count and tally the  
25 ballots and certify the results of the election on the form

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1 provided on the cover of the signature roster by writing  
2 opposite the name of each candidate in words and figures the  
3 total number of votes cast for the candidate and shall set  
4 forth in the spaces provided therefor in words and figures the  
5 total number of votes cast for or against each question  
6 submitted. Ballots not marked as required by the Municipal  
7 Election Code shall not be counted.

8 E. Only the members of the precinct board,  
9 candidates, [~~municipal~~] the county clerk, representatives of  
10 the news media and certified challengers and watchers may be  
11 present while the votes are being counted and tallied. Only  
12 members of the precinct board shall handle ballots and  
13 signature rosters or take part in the counting and tallying.

14 F. The proclamation of the results of the votes  
15 cast shall be distinctly announced by the election judge who  
16 shall read the name of each candidate and the total [~~vote~~]  
17 votes cast for each candidate. The election judge shall also  
18 read the total [~~vote~~] votes cast for and against each question  
19 submitted. The election judge shall thereupon complete an  
20 election return certificate on which is recorded the total  
21 number of votes cast for each candidate and for and against  
22 each question. The certificate shall be signed by all the  
23 members of the precinct board."

24 Section 32. Section 3-8-52 NMSA 1978 (being Laws 1985,  
25 Chapter 208, Section 60, as amended) is amended to read:

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1           "3-8-52. CONDUCT OF ELECTION--EMERGENCY PAPER BALLOTS--  
2 PAPER BALLOTS--SIGNATURE ROSTERS--DISPOSITION.--

3           A. After the counting and tallying of ballots is  
4 completed and after all certificates have been executed, the  
5 precinct board shall place one copy of the signature roster and  
6 one copy of all certificates and tally sheets in the stamped,  
7 addressed envelope provided for that purpose by the [~~municipal~~]  
8 county clerk and immediately mail it to the district court.

9           B. The remaining copy of the signature roster, all  
10 certificates, tally sheets and all ballot box keys shall be  
11 returned to the [~~municipal~~] county clerk. The signature  
12 roster, certificates, tally sheets and ballot box key shall not  
13 be placed in the ballot box.

14           C. After paper ballots used in lieu of voting  
15 machines or emergency paper ballots are counted and tallied,  
16 the precinct board shall place the following in the ballot box:

- 17                   (1) the bundles of counted paper ballots used  
18 in lieu of voting machines or emergency paper ballots;  
19                   (2) the envelopes containing spoiled ballots;  
20 and  
21                   (3) the envelopes containing rejected ballots.

22           D. After the required items have been placed in the  
23 ballot box, the ballot box shall be closed and locked.

24           E. The locked ballot box containing those materials  
25 required by law, the election returns and all other election

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1 materials shall be delivered to the [~~municipal~~] county clerk by  
2 the precinct board within twenty-four hours after the polls are  
3 closed. If such delivery is not timely made, then the vote in  
4 the precinct shall not be canvassed or made a part of the final  
5 election results except upon order of the district court after  
6 finding that the delay in the delivery of materials was due to  
7 forces beyond the control of the precinct board.

8 F. Once the ballot box is locked, it shall not be  
9 opened prior to canvassing."

10 Section 33. Section 3-8-53 NMSA 1978 (being Laws 1965,  
11 Chapter 300, Section 14-8-14, as amended) is amended to read:

12 "3-8-53. POST-ELECTION DUTIES--CANVASS OF RETURNS--  
13 MAJORITY VOTE FOR QUESTIONS.--

14 A. After the polls are closed and after the return  
15 of the ballot box, election returns and other materials by a  
16 precinct board and not later than noon on the third day after  
17 the election, the [~~municipal~~] county clerk shall call [~~to his~~]  
18 for assistance to open the returns:

19 (1) a magistrate within the county, so long as  
20 the magistrate is not a candidate for an office of the  
21 municipality;

22 (2) the members of the governing body of the  
23 municipality who are not candidates for municipal office;  
24 provided that if the members of the governing body who are not  
25 candidates for municipal office constitute a quorum, a special

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1 meeting shall be called; or

2 (3) a district court judge from the judicial  
3 district in which the municipality is located.

4 B. The [~~municipal~~] county clerk and the persons  
5 called to open the returns are the municipal canvassing board,  
6 and the [~~municipal~~] county clerk shall be the presiding officer  
7 of the municipal canvassing board.

8 C. In the presence of the other members of the  
9 municipal canvassing board, the [~~municipal~~] county clerk shall  
10 publicly:

11 (1) canvass the returns in the manner set  
12 forth in the Municipal Election Code;

13 (2) prepare and execute a certificate of  
14 canvass certifying the results of the election. Such  
15 certificate shall contain the total number of voters who voted  
16 at the election, the total number of votes cast for each  
17 candidate, each declared write-in candidate and for and against  
18 each question, which candidates were elected to office and  
19 whether each question passed or failed;

20 (3) sign the certificate of canvass with the  
21 municipal canvassing board signing the certificate of canvass  
22 as witnesses; and

23 (4) immediately file the certificate of  
24 canvass in the official minute book of the municipality.

25 D. The matters to be performed pursuant to

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1 Subsection C of this section shall be completed not later than  
2 5:00 p.m. on the third day following the election, and such  
3 matters shall be performed solely at the office of the  
4 [~~municipal~~] county clerk.

5 E. All questions submitted to the voters shall be  
6 decided by a majority of the voters voting on the question  
7 except as otherwise provided by law."

8 Section 34. Section 3-8-54 NMSA 1978 (being Laws 1985,  
9 Chapter 208, Section 62) is amended to read:

10 "3-8-54. POST-ELECTION DUTIES--CANVASS METHOD.--The  
11 [~~municipal~~] county clerk in the presence of the other members  
12 of the municipal canvassing board shall canvass the election  
13 returns by carefully examining [~~such~~] returns of each precinct  
14 to ascertain if they contain the properly executed certificates  
15 required by the Municipal Election Code and to ascertain  
16 whether any discrepancy, omission or error appears on the face  
17 of the election returns."

18 Section 35. Section 3-8-55 NMSA 1978 (being Laws 1985,  
19 Chapter 208, Section 63, as amended) is amended to read:

20 "3-8-55. POST-ELECTION DUTIES--CANVASS--DEFECTIVE  
21 RETURNS--CORRECTION.--

22 A. The [~~municipal~~] county clerk shall immediately  
23 order the precinct board to appear and make the necessary  
24 corrections or supply omissions or any missing election returns  
25 if it appears:

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1 (1) on the face of the election returns that  
2 any certificate has not been properly executed;

3 (2) that there is a discrepancy within the  
4 election returns;

5 (3) that there is a discrepancy between the  
6 number of votes set forth in the certificate for all candidates  
7 and the number of electors voting as shown by the election  
8 returns;

9 (4) that there is any omission, informality,  
10 ambiguity, error or uncertainty on the face of the returns; or

11 (5) that there are missing election returns.

12 B. If any members of the precinct board fail to  
13 appear as required, the [~~municipal~~] county clerk shall  
14 immediately issue a summons commanding them to appear. The  
15 summons shall be served by a sheriff or state police officer as  
16 in the manner of civil cases, and for each service a sheriff or  
17 state police officer shall be allowed the same mileage as is  
18 paid in civil cases.

19 C. After issuing the necessary notifications or  
20 summonses, the canvass of all correct election returns shall  
21 proceed."

22 Section 36. Section 3-8-56 NMSA 1978 (being Laws 1985,  
23 Chapter 208, Section 64) is amended to read:

24 "3-8-56. POST-ELECTION DUTIES--CANVASS--WHEN RECHECK IS  
25 REQUIRED.--

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1           A. If it appears that the defective returns cannot  
2 be corrected without a recheck of the voting machine, the  
3 [~~municipal~~] county clerk shall immediately cause written notice  
4 to be hand delivered to the district court.

5           B. The district court shall fix a time and place,  
6 which shall be not more than one week after receipt of notice  
7 from the [~~municipal~~] county clerk, for a recheck of the  
8 machines from that precinct.

9           C. The [~~municipal~~] county clerk shall immediately  
10 notify all candidates for municipal office, if any, of the time  
11 and place of the recheck.

12           D. At the time and place set by the district court,  
13 the recheck shall be conducted as provided in the Municipal  
14 Election Code.

15           E. After the recheck, the election returns shall be  
16 corrected in duplicate to conform to the facts.

17           F. After being properly corrected, the election  
18 returns shall be retained by the [~~municipal~~] county clerk and  
19 the [~~municipal~~] county clerk shall execute an amended  
20 certificate of canvass."

21           Section 37. Section 3-8-57 NMSA 1978 (being Laws 1985,  
22 Chapter 208, Section 65, as amended) is amended to read:

23           "3-8-57. POST-ELECTION DUTIES--CANVASS--SEARCH FOR  
24 MISSING RETURNS.--The [~~municipal~~] county clerk may open the  
25 ballot box during canvass for the purpose of obtaining ballots

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1 cast in the election to be counted and tallied, to search for  
2 missing election returns and to remove all unused election  
3 supplies from the ballot box. The ballot box shall be opened  
4 by the [~~municipal~~] county clerk only in the presence of the  
5 canvassing board."

6 Section 38. Section 3-8-58 NMSA 1978 (being Laws 1985,  
7 Chapter 208, Section 66, as amended) is amended to read:

8 "3-8-58. POST-ELECTION DUTIES--CANVASS--VOTING MACHINE  
9 RECHECK.--

10 A. Prior to completion of the official canvass of  
11 an election, the [~~municipal~~] county clerk, upon written request  
12 of any candidate in the election, if any, or upon receipt of a  
13 written petition of five percent of the people who voted in the  
14 election, shall, in the presence of the district judge, conduct  
15 a recheck and comparison of the results shown on the official  
16 returns being canvassed with the results of each voting machine  
17 used in the election.

18 B. For the purpose of making the recheck and  
19 comparison, the [~~municipal clerk may request the~~] county clerk  
20 [~~to~~] may:

- 21 (1) break the seal and unlock the voting  
22 machine;
- 23 (2) check the figures shown by the counter on  
24 the voting machine;
- 25 (3) insert the cartridge into the voting

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1 machine; and

2 (4) rerun the printed returns from the voting  
3 machine.

4 C. At the conclusion of the recheck and comparison,  
5 the voting machine shall again be locked.

6 D. The necessary corrections, if any, shall be made  
7 on the returns and the results of the election, as shown by the  
8 recheck and comparison, shall be declared."

9 Section 39. Section 3-8-60 NMSA 1978 (being Laws 1985,  
10 Chapter 208, Section 68) is amended to read:

11 "3-8-60. POST-ELECTION DUTIES--TIE VOTE.--In the event of  
12 a tie vote between any candidates in the election for the same  
13 office, the determination as to which of the candidates shall  
14 be declared to have been elected shall be decided by drawing by  
15 impartial lot. The method of determining by lot shall be  
16 mutually agreed upon by the candidates who are tied. The  
17 [~~municipal~~] county clerk shall issue a certificate of election  
18 to the candidate chosen by lot."

19 Section 40. Section 3-8-61 NMSA 1978 (being Laws 1985,  
20 Chapter 208, Section 69) is amended to read:

21 "3-8-61. POST-ELECTION DUTIES--NATURE OF DOCUMENTS--  
22 EXPENSE OF CORRECTIONS--PROCEEDINGS FOR CONTEMPT--  
23 RESPONSIBILITY FOR VOTING MACHINES.--

24 A. Municipal election returns are public records,  
25 subject to inspection during customary office hours by

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1 candidates and by members of the public, and may be copied upon  
2 request of a candidate or member of the public at a reasonable  
3 charge.

4 B. The expense of any proceeding to complete or  
5 correct any election returns or certificates shall be paid from  
6 the municipal general fund [~~upon voucher signed by the~~  
7 ~~municipal~~] to the county clerk.

8 C. Failure of any person to obey any summons  
9 required to be issued by or issued pursuant to the Municipal  
10 Election Code is contempt and is punishable as provided by law.

11 D. The [~~municipal~~] county clerk shall have custody  
12 of all voting machines at all polling places [~~Within three days~~  
13 ~~after the election, the county clerk shall take physical~~  
14 ~~eustody of~~] and shall secure [~~such~~] the machines for thirty  
15 days after certificates of election are issued to candidates or  
16 thirty days after canvass is completed in an election with no  
17 candidates for municipal office. The county clerk shall take  
18 the proper action to see that the voting machines in custody  
19 remain unopened, untampered with and undamaged during the  
20 thirty-day period."

21 Section 41. Section 3-8-62 NMSA 1978 (being Laws 1965,  
22 Chapter 300, Section 14-8-16, as amended) is amended to read:

23 "3-8-62. CONTEST OF ELECTIONS--DESTRUCTION OF BALLOTS.--

24 A. The district court shall entertain contests for  
25 any municipal office or on any question placed on the ballot,

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1 and the procedure shall be as provided in the Municipal  
2 Election Code.

3 B. The ballots [~~only~~] shall be destroyed:

4 (1) thirty days after the issuance of the  
5 certificate of election or thirty days after completion of  
6 canvassing for elections in which there are no candidates for  
7 municipal office for those precincts in which the [~~municipal~~]  
8 county clerk has received no notice of contest or judicial  
9 inquiry; or

10 (2) upon order of the district court having  
11 jurisdiction for those precincts where a contest, recount or  
12 judicial inquiry is sought."

13 Section 42. Section 3-8-63 NMSA 1978 (being Laws 1985,  
14 Chapter 208, Section 71, as amended) is amended to read:

15 "3-8-63. CONTEST OF ELECTIONS--WHO MAY CONTEST--STATUS OF  
16 PERSON HOLDING CERTIFICATE--FILING OF COMPLAINT.--

17 A. Any unsuccessful candidate for election to any  
18 municipal office may contest the election of the candidate to  
19 whom a certificate of election has been issued. Twenty percent  
20 of those people who voted at the municipal election may contest  
21 the election on a question.

22 B. In case of a contest of an election, the person  
23 holding the certificate of election shall take possession and  
24 discharge the duties of the office until the contest is  
25 decided. If a contest of a question occurs, the question shall

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1 be considered passed or defeated according to the official  
2 certificate of canvass of the election filed by the [~~municipal~~]  
3 county clerk in the official records of the municipality until  
4 the contest is decided.

5 C. Any action to contest an election shall be  
6 commenced by the filing of a verified complaint of contest in  
7 the district court. Such complaint shall be filed no later  
8 than thirty days from issuance of the certificate of election  
9 to the successful candidate or thirty days after completion of  
10 canvassing for elections in which there are no candidates for  
11 municipal office. A copy of the petition shall be served on  
12 the [~~municipal clerk~~] governing body of the municipality, and  
13 the municipality shall be afforded an opportunity to intervene  
14 in the contest. The one instituting the action shall be known  
15 as the contestant and the one against whom the action is  
16 instituted shall be known as the contestee. The rules of civil  
17 procedure shall apply to all actions commenced under the  
18 provisions of this section."

19 Section 43. Section 3-8-65 NMSA 1978 (being Laws 1985,  
20 Chapter 208, Section 73, as amended) is amended to read:

21 "3-8-65. CONTEST OF ELECTIONS--PRESERVATION OF  
22 BALLOTS--BALLOTS DEFINED--APPLICATION FOR ORDER--DEPOSIT.--

23 A. Either the contestant or contestee, within the  
24 time provided by the Municipal Election Code for the  
25 preservation of ballots, shall give notice by certified mail to

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1 the [~~municipal~~] county clerk that a contest is pending in a  
2 designated court, and it is the duty of the [~~municipal~~] county  
3 clerk to preserve the ballots of all precincts named in the  
4 notice of contest and [~~to notify the county clerk to~~] impound  
5 the ballot faces and voting machines used in all of the  
6 precincts named in the notice of contest until the contest has  
7 been finally determined.

8 B. "Ballots", as used in Subsection A of this  
9 section, includes signature rosters, registered voter lists,  
10 machine-printed returns, voting machine permits, paper ballots,  
11 marksense ballots, absentee ballots, absentee ballot outer  
12 envelopes, statements of canvass, absentee ballot applications,  
13 absentee ballot registers and absentee voter lists.

14 C. Any contestant or contestee may petition the  
15 district court for an order impounding ballots in one or more  
16 precincts or consolidated precincts. The petition shall state  
17 what specific items of ballots are requested to be impounded.  
18 Upon receipt of the petition, along with a cash deposit of  
19 twenty-five dollars (\$25.00) per precinct or consolidated  
20 precinct, the court may issue an order of impoundment."

21 Section 44. Section 3-8-67 NMSA 1978 (being Laws 1985,  
22 Chapter 208, Section 75) is amended to read:

23 "3-8-67. CONTEST OF ELECTION--BURDEN OF PROOF.--

24 A. If a contestant makes a prima facie showing that  
25 the precinct board or [~~municipal~~] county clerk failed to

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1 substantially comply with those provisions of the Municipal  
2 Election Code [~~which~~] that protect the secrecy and sanctity of  
3 the ballot and prescribe the duties of the precinct board or  
4 [~~municipal~~] county clerk, [~~then~~] the burden shall be on the  
5 contestee to prove that no fraud, intimidation, coercion or  
6 undue influence was exerted by [~~such~~] the precinct board  
7 members or the [~~municipal~~] county clerk and that the secrecy  
8 and purity of the ballot [~~was~~] were safeguarded and no  
9 intentional evasion of the substantial requirements of the law  
10 was made.

11 B. If the contestee fails to make such a showing,  
12 the votes of that entire polling place shall be rejected;  
13 provided that no such rejection shall be made [~~where~~] when it  
14 appears to the court that the members of the precinct board or  
15 [~~municipal~~] county clerk ignored the requirements of the  
16 Municipal Election Code with the probable intent of procuring  
17 the rejection of the entire vote in the precinct."

18 Section 45. Section 3-8-68 NMSA 1978 (being Laws 1985,  
19 Chapter 208, Section 76, as amended) is amended to read:

20 "3-8-68. RECOUNT--RECHECK--APPLICATION--COSTS.--

21 A. Whenever any candidate for any office for which  
22 the [~~municipal~~] county clerk issues a certificate of election  
23 believes that any error or fraud has been committed by any  
24 precinct board in counting or tallying the paper ballots used  
25 in lieu of voting machines, emergency paper ballots or absentee

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1 ballots, in the verification of the votes cast on the voting  
2 machines or in the certifying of the results of any election  
3 whereby the results of the election in the precinct have not  
4 been correctly determined, declared or certified, the  
5 candidate, within six days after completion of the canvass by  
6 the municipal canvassing board, may have a recount of the paper  
7 ballots used in lieu of voting machines, emergency paper  
8 ballots or absentee ballots, or a recheck of the voting machine  
9 and the voting machine cartridge that contains the number of  
10 total votes that were cast in the precinct.

11 B. In the case of any office for which the  
12 [~~municipal~~] county clerk issues a certificate of election,  
13 application for recount or recheck shall be filed with the  
14 [~~municipal~~] county clerk.

15 C. Any applicant for a recount shall deposit with  
16 the [~~municipal~~] county clerk fifty dollars (\$50.00) in cash or  
17 a sufficient surety bond in an amount equal to fifty dollars  
18 (\$50.00) for each precinct or consolidated precinct for which a  
19 recount is demanded. Any applicant for a recheck shall deposit  
20 with the [~~municipal~~] county clerk ten dollars (\$10.00) in cash  
21 or a sufficient surety bond in an amount equal to ten dollars  
22 (\$10.00) for each voting machine to be rechecked.

23 D. The deposit or surety bond shall be security for  
24 the payment of the costs and expenses of the recount or recheck  
25 in case the results of the recount or recheck are not

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1 sufficient to change the results of the election.

2 E. If it appears that error or fraud sufficient to  
3 change the winner of the election has been committed, the costs  
4 and expenses of the recount or recheck shall be paid by the  
5 municipality [~~upon warrant of the municipal clerk~~] from the  
6 general fund of the municipality.

7 F. If no error or fraud appears to be sufficient to  
8 change the winner, the costs and expenses for the recount or  
9 recheck shall be paid by the applicant. Costs shall consist of  
10 any docket fees, mileage of a sheriff or state police officer  
11 in serving summons and fees and mileage of precinct board  
12 members, at the same rates allowed witnesses in civil actions.  
13 If fraud has been committed by a precinct board, [~~they~~] it  
14 shall not be entitled to such mileage or fees."

15 Section 46. Section 3-8-69 NMSA 1978 (being Laws 1985,  
16 Chapter 208, Section 77, as amended) is amended to read:

17 "3-8-69. RECOUNT--RECHECK--PROCEEDINGS.--

18 A. Immediately after filing of the application for  
19 recount or recheck, the [~~municipal~~] county clerk shall issue a  
20 summons directed to the precinct board of each precinct or  
21 consolidated precinct specified in the application commanding  
22 it to appear at the office of the [~~municipal~~] county clerk on a  
23 day fixed in the summons, which date shall not be more than ten  
24 days after the filing of the application for recount or  
25 recheck. [~~A copy of the summons shall be forwarded to the~~

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1 ~~county clerk of the concerned county.]~~

2 B. The [~~municipal~~] county clerk shall deliver the  
3 summons to a sheriff or state police officer who shall  
4 forthwith personally serve it upon each of the precinct board  
5 members. The [~~municipal~~] county clerk shall send [~~notices~~]  
6 notice by registered mail of the date, time and place fixed for  
7 recount or recheck to the district judge [~~and county clerk~~].

8 C. The precinct board, district judge or the  
9 district court judge's designee and the county clerk [~~and the~~  
10 ~~municipal clerk~~] shall meet on the date, time and [~~places~~]  
11 place fixed for the recount or recheck, and the ballot boxes or  
12 voting machines of the precinct or consolidated precinct  
13 involved in the recount or recheck shall be opened. The  
14 precinct boards shall recount and retally the paper ballots  
15 used in lieu of voting machines or emergency paper ballots or  
16 recheck the votes cast on the voting machine, as the case may  
17 be, and recount and retally the absentee ballots for the office  
18 in question in the presence of [~~the municipal clerk~~] the county  
19 clerk, district judge or person designated to act for the judge  
20 and any other person who may desire to be present.

21 D. During the recount or recheck, the precinct  
22 board of a precinct or consolidated precinct where emergency  
23 paper ballots, paper ballots used in lieu of voting machines or  
24 absentee ballots were used shall recount and retally only the  
25 ballots that the election judge accepted and placed in the

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1 ballot box at the time they were cast or received, as the case  
2 may be.

3 E. After completion of the recount or recheck, the  
4 precinct board shall replace the emergency paper ballots, paper  
5 ballots used in lieu of voting machines or absentee ballots in  
6 the ballot box and lock it, or the voting machines shall be  
7 locked and resealed, and the precinct board shall certify to  
8 the [~~municipal~~] county clerk the results of the recount or  
9 recheck. The district judge or the person designated to act  
10 for the judge and the county clerk [~~and the municipal clerk~~]  
11 shall also certify that the recount or recheck was made in  
12 their presence."

13 Section 47. Section 3-8-70 NMSA 1978 (being Laws 1985,  
14 Chapter 208, Section 78) is amended to read:

15 "3-8-70. RECOUNT--RECHECK--RECANVASS.--

16 A. Immediately upon receipt of the certificate of  
17 recount or recheck from all the precinct boards making a  
18 recount or recheck, the municipal canvassing board shall meet  
19 and recanvass the returns for the office in question.

20 B. In making the recanvass, the municipal  
21 canvassing board shall be bound by the certificates of recount  
22 or recheck from the precinct boards instead of the original  
23 returns from those precinct boards.

24 C. After the recanvass, if it appears that fraud or  
25 error has been committed sufficient to change the winner of the

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1 election, ~~[then]~~ the ~~[municipal]~~ county clerk shall revoke the  
2 certificate of election already issued to any person for that  
3 office and shall issue a certificate of election in favor of  
4 the person receiving a plurality of the votes cast at the  
5 election as shown by the recount or recheck, and such  
6 certificate shall supersede all others and entitle the holder  
7 to all of the rights and privileges of the office. The person  
8 shall take office after complying with Section 3-8-33 NMSA 1978  
9 with the time to take office running from the date that the new  
10 certificate is issued."

11 Section 48. Section 3-8-71 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 79, as amended) is amended to read:

13 "3-8-71. PRESERVATION OF ELECTION INFORMATION.--

14 A. The ~~[municipal]~~ county clerk shall retain for  
15 two years after each municipal election:

16 (1) the absentee ballot register, application  
17 for absentee ballots, absentee voter lists and affidavits of  
18 destruction;

19 (2) signature roster and registered voter  
20 list;

21 (3) the machine-printed returns;

22 (4) oaths of office of the precinct board;

23 (5) declarations of candidacy and withdrawals;

24 (6) copies of all election material required  
25 to be published or posted;

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- 1 (7) a copy of all sample ballots and ballot
- 2 faces;
- 3 (8) voting machine permits;
- 4 (9) certificates submitted by voters;
- 5 (10) copies of all affidavits and certificates
- 6 prepared in connection with the election;
- 7 (11) all results of recounts, rechecks,
- 8 contests and recanvass; and
- 9 (12) all other significant election materials.

10 B. The district court shall retain for forty-five  
11 days after each municipal election all election materials sent  
12 by the precinct board. Thereafter, the material may be  
13 destroyed unless needed by the court in connection with a  
14 contest or other case or controversy.

15 C. The [~~municipal~~] county clerk shall destroy  
16 election records two years after the election by shredding,  
17 burning or otherwise destroying."

18 Section 49. Section 3-8-73 NMSA 1978 (being Laws 1985,  
19 Chapter 208, Section 81) is amended to read:

20 "3-8-73. UNLAWFUL OPENING OF BALLOT BOX OR VOTING  
21 MACHINE--PENALTY.--

22 A. Unlawful opening of a ballot box consists of  
23 opening any ballot box or inspecting or removing the contents  
24 [~~thereof~~] without lawful authority or conspiring with others to  
25 have the same done.

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1           B. A person who commits unlawful opening of a  
2 ballot box is guilty of a fourth degree felony.

3           C. Unlawful opening of a voting machine consists  
4 of, without lawful authority, opening, unlocking, inspecting,  
5 tampering, resetting or adjusting a voting machine [~~which~~] that  
6 has been certified by the [~~municipal~~] county clerk or  
7 conspiring with others to have the same done.

8           D. A person who commits unlawful opening of a  
9 voting machine is guilty of a fourth degree felony."

10           Section 50. Section 3-8-75 NMSA 1978 (being Laws 1985,  
11 Chapter 208, Section 83, as amended) is amended to read:

12           "3-8-75. FALSE VOTING--FALSIFYING ELECTION DOCUMENTS--  
13 FALSE SWEARING--PENALTY.--

14           A. False voting consists of:

15                   (1) voting or offering to vote with the  
16 knowledge of not being a qualified elector;

17                   (2) voting or offering to vote in the name of  
18 any other person;

19                   (3) knowingly voting or offering to vote in  
20 any precinct except that in which one is registered;

21                   (4) voting or offering to vote more than once  
22 in the same election;

23                   (5) inducing, abetting or procuring or  
24 attempting to induce, abet or procure a person known not to be  
25 a qualified elector to vote; or

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1 (6) inducing, abetting or procuring or  
2 attempting to induce, abet or procure a person who has voted  
3 once in any election to vote or attempt to vote again at the  
4 same election.

5 B. A person who commits false voting is guilty of a  
6 fourth degree felony.

7 C. Falsifying election documents consists of  
8 performing any of the following acts willfully and with  
9 knowledge and intent to deceive or mislead any voter, precinct  
10 board, [~~municipal~~] county clerk or other election official:

11 (1) printing, causing to be printed,  
12 distributing or displaying false or misleading instructions  
13 pertaining to voting or the conduct of the election;

14 (2) printing, causing to be printed,  
15 distributing or displaying any official ballot, absentee  
16 ballot, marksense ballot, sample ballot, facsimile diagram,  
17 ballot face or pretended ballot that includes the name of any  
18 person not entitled by law to be on the ballot or omits or  
19 defaces the name of any person entitled by law to be on the  
20 ballot or otherwise contains false or misleading information or  
21 headings;

22 (3) defacing, altering, forging, making false  
23 entries in or changing any election document, including  
24 election returns, a certificate of election registration record  
25 or signature rosters, affidavits, certificates or any other

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1 election document except as authorized in the Municipal  
2 Election Code;

3 (4) withholding any certificate of election,  
4 registered voter list, signature roster, election return or any  
5 other election document required by or prepared and issued  
6 pursuant to the Municipal Election Code; or

7 (5) preparing or submitting any false  
8 certificate of election, signature roster, registered voter  
9 list, election return or any other election document.

10 D. A person who falsifies election documents is  
11 guilty of a fourth degree felony.

12 E. False swearing consists of knowingly taking or  
13 giving any oath required by the Municipal Election Code with  
14 the knowledge that the thing or matter sworn to is not a true  
15 and correct statement.

16 F. A person who falsely swears is guilty of a  
17 fourth degree felony."

18 Section 51. Section 3-8-76 NMSA 1978 (being Laws 1985,  
19 Chapter 208, Section 84, as amended) is amended to read:

20 "3-8-76. OFFERING A BRIBE--ACCEPTING A BRIBE--  
21 INTIMIDATION--PENALTY.--

22 A. Offering a bribe consists of willfully offering,  
23 advancing, paying or causing to be paid or promising, directly  
24 or indirectly, any money, other valuable consideration, office  
25 or employment to any person for any of the following purposes

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1 connected with or incidental to any election:

2 (1) to induce [~~such~~] a person to vote or  
3 refrain from voting for or against any candidate or question;

4 (2) to induce [~~such~~] a person, if a precinct  
5 board member, [~~municipal~~] county clerk or other election  
6 official, to mark, alter, withhold or otherwise change or  
7 falsify any ballot or vote that has been cast, any election  
8 return, any certificate of election or any other election  
9 document; or

10 (3) to induce [~~such~~] a person to use [~~such~~] a  
11 payment or promise to bribe others for the purposes specified  
12 in this section.

13 B. A person who offers a bribe is guilty of a  
14 fourth degree felony.

15 C. Accepting a bribe consists of knowingly  
16 accepting any payment or promise of payment, directly or  
17 indirectly, of money, other valuable consideration, office or  
18 employment for the unlawful purposes specified in Subsection A  
19 of this section.

20 D. A person who accepts a bribe is guilty of a  
21 fourth degree felony.

22 E. Intimidation consists of any person, including  
23 but not limited to any elected or appointed municipal official  
24 or employee, inducing or attempting to induce fear by use of or  
25 threatened use of force, violence, infliction of damage, harm

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1 or loss to any person or property or any form of economic  
2 retaliation upon any person voting or intending to vote,  
3 precinct board member, challenger, watcher or [~~municipal~~]  
4 county clerk to impede or prevent the free, fair and secret  
5 exercise of the elective franchise or the impartial and legally  
6 correct administration of the election pursuant to the  
7 Municipal Election Code.

8 F. A person who commits intimidation is guilty of a  
9 fourth degree felony."

10 Section 52. Section 3-8-78 NMSA 1978 (being Laws 1985,  
11 Chapter 208, Section 86, as amended) is amended to read:

12 "3-8-78. COERCION OF EMPLOYEES--PERMITTING PRISONERS TO  
13 VOTE--MALFEASANCE BY MESSENGERS--UNLAWFUL USE OR POSSESSION OF  
14 ALCOHOLIC LIQUOR OR ILLEGAL DRUGS--PENALTY.--

15 A. Coercion of employees consists of any officer or  
16 agent of any corporation, company or association or any person  
17 having supervision over or employing persons entitled to vote  
18 at any election directly or indirectly discharging or  
19 penalizing or threatening to discharge or penalize [~~such~~] an  
20 employee because of the employee's opinions or beliefs or  
21 because of [~~such~~] the employee's intention to vote or to  
22 refrain from voting for any candidate or for or against any  
23 question.

24 B. A person who commits coercion of employees is  
25 guilty of a fourth degree felony.

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1 C. Permitting prisoners to vote consists of any  
2 person who has custody of convicts or prisoners taking [~~such~~]  
3 convicts or prisoners or permitting them to be taken to any  
4 polling place for the purpose of voting in any election.

5 D. A person who permits prisoners to vote is guilty  
6 of a petty misdemeanor and shall be punished by a fine of not  
7 less than one hundred dollars (\$100) [~~nor~~] or more than five  
8 hundred dollars (\$500) or by imprisonment for not less than  
9 thirty days [~~nor~~] or more than ninety days, or both.

10 E. [~~Subsection~~] Subsections C and [~~Subsection~~] D of  
11 this section do not prohibit permitting prisoners who are  
12 legally qualified to vote to cast an absentee ballot pursuant  
13 to the provisions of the Municipal Election Code.

14 F. Malfeasance by messengers consists of the  
15 willful delay or failure of any official messenger to convey or  
16 deliver election supplies to the precinct board or [~~municipal~~]  
17 county clerk, the willful delay or failure of any official  
18 messenger to convey or deliver the ballot box, key, election  
19 returns or other election materials, documents or supplies to  
20 the [~~municipal~~] county clerk or precinct board or the willful  
21 delay or failure of any official messenger to perform as  
22 required by any precinct board member or the [~~municipal~~] county  
23 clerk who makes a legal demand.

24 G. Any messenger committing [~~such~~] malfeasance by  
25 messengers is guilty of a petty misdemeanor.

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1           H. Unlawful use or possession of alcoholic liquor  
2 or illegal drugs consists of the use or possession of any  
3 alcoholic liquor or illegal drug by any member of the precinct  
4 board, challengers, watchers or the [~~municipal~~] county clerk  
5 prior to or while performing official duties on election day.  
6 Unlawful use or possession also consists of the use, possession  
7 or carrying of alcoholic liquor or illegal drugs within two  
8 hundred feet of the polling place during any election.

9           I. A person who commits unlawful possession of  
10 alcoholic liquor or illegal drugs is guilty of a petty  
11 misdemeanor."

12           Section 53. Section 3-8-79 NMSA 1978 (being Laws 1985,  
13 Chapter 208, Section 87, as amended) is amended to read:

14           "3-8-79. CONSPIRACY--GENERAL PENALTY--VIOLATION BY  
15 [~~MUNICIPAL~~] COUNTY CLERK--PENALTY.--

16           A. Conspiracy to violate the Municipal Election  
17 Code consists of two or more persons knowingly combining,  
18 uniting or agreeing to cause or attempt to cause the omission  
19 or commission of any duty or act that violates the provisions  
20 of the Municipal Election Code.

21           B. A person who commits conspiracy to violate the  
22 Municipal Election Code is guilty of a fourth degree felony.

23           C. If the Municipal Election Code does not impose a  
24 specific penalty for the violation of a provision prohibiting a  
25 specific act, a person who knowingly commits such violation is

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1 guilty of a misdemeanor.

2 D. Violation of the Municipal Election Code  
3 consists of the willful violation of the Municipal Election  
4 Code or the willful failure or refusal to perform any act or  
5 duty required by the Municipal Election Code.

6 E. A member of the municipal governing body, a  
7 municipal official or employee, or [~~municipal~~] a county clerk,  
8 deputy or assistant who willfully violates the Municipal  
9 Election Code is guilty of a fourth degree felony and, in  
10 addition, such violation is sufficient cause for removal from  
11 office in a proceeding instituted for that purpose as provided  
12 by law."

13 Section 54. Section 3-9-2 NMSA 1978 (being Laws 1973,  
14 Chapter 375, Section 4) is amended to read:

15 "3-9-2. CERTAIN APPLICATIONS CONSTITUTE REGISTRATION.--An  
16 application from a federal qualified elector or federal voter  
17 shall, when received by the [~~municipal~~] county clerk,  
18 constitute a registration for purposes of that election."

19 Section 55. Section 3-9-4 NMSA 1978 (being Laws 1973,  
20 Chapter 375, Section 3, as amended) is amended to read:

21 "3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--  
22 ACCEPTANCE--ISSUANCE OF ABSENTEE BALLOT.--

23 A. Application by a federal qualified elector or  
24 federal voter shall be made on the federal postcard application  
25 form to the [~~municipal~~] county clerk.

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1           B. The [~~municipal~~] county clerk shall prescribe the  
2 form of the absentee ballot application.

3           C. An application for an absentee ballot may be  
4 obtained by the voter from the [~~municipal~~] county clerk. An  
5 application for an absentee ballot may be requested by the  
6 voter in person, by telephone or by mail, and any voter may  
7 request an application for an absentee ballot for an immediate  
8 family member. For purposes of this section, "immediate  
9 family" means spouse, children, parents, brothers and sisters.

10           D. A list containing the names and addresses of  
11 voters requesting absentee ballot applications shall be kept  
12 and shall be made a part of the absentee ballot register.

13           E. Upon receipt of a properly completed and  
14 delivered application for an absentee ballot, the [~~municipal~~  
15 ~~clerk shall contact the~~] county clerk [~~to~~] shall determine if  
16 the applicant is a qualified elector of the municipality.

17           F. The [~~municipal~~] county clerk shall reject an  
18 absentee ballot application for any of the following reasons:

19                   (1) the application is not made on the form  
20 provided by the [~~municipal~~] county clerk;

21                   (2) the application does not set forth the  
22 applicant's full name and address;

23                   (3) the application does not set forth the  
24 applicant's social security number or date of birth;

25                   (4) the application is not signed by the

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1 applicant; or

2 (5) the applicant:

3 (a) has no valid affidavit of  
4 registration on file with the county clerk and is not a federal  
5 qualified elector or federal voter;

6 (b) has a valid affidavit of  
7 registration on file with the county clerk, but is not a  
8 resident of the municipality; or

9 (c) is a federal qualified elector or  
10 federal voter, but is not entitled to vote in the municipal  
11 election; and

12 (d) cannot comply with Subparagraph  
13 (a), (b) or (c) of this paragraph pursuant to Subsection B of  
14 Section 3-8-40 NMSA 1978.

15 G. If the [~~municipal~~] county clerk rejects the  
16 absentee ballot application pursuant to Subsection F of this  
17 section, [~~then~~] the [~~municipal~~] county clerk shall refuse to  
18 issue an absentee ballot and shall mark the application  
19 "rejected" and enter "rejected" in the absentee ballot register  
20 and file the application in a separate file. The [~~municipal~~]  
21 county clerk shall, within twenty-four hours of rejection of  
22 the application, notify the applicant of the reasons for  
23 rejection of the application. Upon rejection of the  
24 application, the [~~municipal~~] county clerk shall determine the  
25 method of notification to the voter. Notification shall only

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1 be made by courier with return receipt or certified mail,  
2 return receipt requested. The person whose application has  
3 been rejected shall have ten days from receipt of notice to  
4 appeal or show cause why the application should be accepted.  
5 In addition, if the application is incomplete, the county clerk  
6 shall mail immediately a new application for an absentee  
7 ballot.

8 H. If the application for an absentee ballot is  
9 accepted, the [~~municipal~~] county clerk shall:

- 10 (1) mark the application "accepted";  
11 (2) enter the required information in the  
12 absentee ballot register; and  
13 (3) issue to the applicant an absentee ballot.

14 I. The [~~municipal~~] county clerk shall deliver the  
15 absentee ballot to the applicant in the office of the  
16 [~~municipal~~] county clerk if the application for an absentee  
17 ballot has been accepted and if the application is submitted in  
18 person by the applicant or mail an absentee ballot to any  
19 qualified elector, federal qualified elector or federal voter  
20 whose application for an absentee ballot was received by mail  
21 and has been accepted. The [~~municipal clerk shall notify the~~]  
22 county clerk [~~who~~] shall write "absentee ballot" on the  
23 signature line of the signature roster next to the name of the  
24 person who has been sent an absentee ballot. Names of  
25 individuals that have been labeled "absentee ballot" shall

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1 appear on a separate list called the "absentee voter list".  
2 [~~This list shall be submitted to the municipal clerk by the~~  
3 ~~county clerk in the same manner as provided in Subsection B of~~  
4 ~~Section 3-8-7 NMSA 1978.~~]

5 J. It is the duty of the [~~municipal~~] county clerk  
6 to verify the signature roster and absentee voter list to  
7 ensure that all names of individuals who have been issued  
8 absentee ballots have been labeled "absentee ballot" on the  
9 signature roster and their names listed on the absentee voter  
10 list. If not, the [~~municipal~~] county clerk shall write  
11 "absentee ballot" on the signature line of the signature roster  
12 next to the name of the person who has been sent an absentee  
13 ballot. The [~~municipal~~] county clerk shall then enter the name  
14 and all required information on the absentee voter list.

15 K. If the application for an absentee ballot is  
16 delivered in person to the [~~municipal~~] county clerk during  
17 regular hours and days of business and is accepted, the  
18 [~~municipal~~] county clerk shall issue the voter the absentee  
19 ballot and it shall be marked by the applicant in a voting  
20 booth in the [~~municipal~~] county clerk's office, sealed in the  
21 proper envelopes and otherwise properly executed and returned  
22 to the [~~municipal~~] county clerk or the clerk's authorized  
23 representative before the applicant leaves the office of the  
24 [~~municipal~~] county clerk, or allow the voter to cast a vote on  
25 the voting machine. Absentee ballots may be marked in person

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1 beginning at 8:00 a.m. on the twenty-seventh day before the  
2 election at the [~~municipal~~] county clerk's office during the  
3 regular hours and days of business until 5:00 p.m. on the  
4 Friday immediately prior to the date of election. An absent  
5 voter may vote in person on a paper ballot, or on an electronic  
6 voting machine, at the [~~municipal~~] county clerk's office  
7 beginning at 8:00 a.m. on the twentieth day prior to the  
8 election until 5:00 p.m. on the Friday immediately before the  
9 election.

10 L. The act of marking the absentee ballot in the  
11 office of the [~~municipal~~] county clerk shall be a convenience  
12 to the voter in the delivery of the absentee ballot and does  
13 not make the office of the [~~municipal~~] county clerk a polling  
14 place subject to the requirements of a polling place in the  
15 Municipal Election Code other than is provided in this  
16 subsection. During the period of time between the date a  
17 person may first apply in person for an absentee ballot and the  
18 final date for such application and marking of the ballot in  
19 the office of the [~~municipal~~] county clerk, it is unlawful to  
20 solicit votes or display or otherwise make accessible any  
21 posters, signs or other forms of campaign literature whatsoever  
22 in the county clerk's office.

23 M. Absentee ballots shall be air mailed to federal  
24 qualified electors and federal voters whose applications have  
25 been accepted not earlier than thirty-five days prior to the

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1 election and not later than 5:00 p.m. on the Friday immediately  
2 prior to the date of the election.

3 N. Absentee ballots shall be mailed to voters whose  
4 applications have been approved not earlier than thirty-five  
5 days prior to the election and not later than 5:00 p.m. on the  
6 Friday immediately prior to the date of the election.

7 O. No absentee ballot shall be delivered or mailed  
8 to any person other than the applicant for such ballot."

9 Section 56. Section 3-9-5 NMSA 1978 (being Laws 1973,  
10 Chapter 375, Section 6, as amended) is amended to read:

11 "3-9-5. ABSENTEE BALLOT REGISTER.--

12 A. For each election, the [~~municipal~~] county clerk  
13 shall keep an "absentee ballot register" in which [~~he~~] the  
14 clerk shall enter:

15 (1) in numerical sequence, the name and  
16 municipal address of each absentee ballot applicant;

17 (2) the date and time of receipt of the  
18 application;

19 (3) whether the application was accepted or  
20 rejected;

21 (4) the date of delivery to the voter in  
22 person in the office of the [~~municipal~~] county clerk, or  
23 mailing of an absentee ballot to the applicant, the method of  
24 delivery and, if mailed, the address to which the ballot was  
25 mailed;

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1 (5) the applicant's precinct and district  
2 number, if applicable;

3 (6) whether the applicant is a voter, a  
4 federal voter or a federal qualified elector;

5 (7) affidavits of voters who did not receive  
6 absentee ballots; and

7 (8) the date and time the completed ballot was  
8 received from the applicant by the [~~municipal~~] county clerk.

9 B. The absentee ballot register is a public record  
10 open to public inspection in the [~~municipal~~] county clerk's  
11 office during regular office hours and shall be preserved for  
12 two years after the date of the election. The [~~municipal~~]  
13 county clerk shall have an updated absentee ballot register  
14 available for public inspection Monday through Friday during  
15 regular office hours.

16 C. For the purposes of recordkeeping, the absentee  
17 register may be combined with the early voting register,  
18 provided that the method of balloting shall be labeled either  
19 "absentee ballot" or "early voter".

20 Section 57. Section 3-9-6 NMSA 1978 (being Laws 1973,  
21 Chapter 375, Section 7, as amended) is amended to read:

22 "3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE BALLOT  
23 ENVELOPES.--

24 A. The form of the absentee ballot shall be, as  
25 nearly as practicable, in the same form as prescribed by the

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1     ~~[municipal]~~ county clerk for emergency paper ballots or paper  
2     ballots used in lieu of voting machines. However, to reduce  
3     weight and bulk for transport of absentee ballots, the size and  
4     weight of the paper for envelopes, ballots and instructions  
5     shall be reduced as much as is practicable. The ballots shall  
6     provide for sequential numbering.

7             B. Absentee ballots and envelopes shall be  
8     delivered by the printer to the ~~[municipal]~~ county clerk not  
9     later than thirty-five days prior to the date of the election  
10    to be held.

11            C. The ~~[municipal]~~ county clerk shall prescribe the  
12    form of:

13                   (1) official inner envelopes for use in  
14    sealing the completed absentee ballot;

15                   (2) official mailing envelopes for use in  
16    returning the official inner envelope to the ~~[municipal]~~ county  
17    clerk;

18                   (3) absentee ballot instructions, describing  
19    proper methods for completion of the ballot and returning it;  
20    and

21                   (4) official transmittal envelopes for use by  
22    the ~~[municipal]~~ county clerk in mailing absentee ballot  
23    materials.

24             D. Official transmittal envelopes and official  
25    mailing envelopes for transmission of absentee ballot materials

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1 to and from the [~~municipal~~] county clerk and federal voters and  
2 federal qualified electors shall be printed in blue in the form  
3 prescribed by postal regulations and [~~the Federal Voting~~  
4 ~~Assistance Act of 1955~~] federal law. Official transmittal  
5 envelopes and official mailing envelopes for transmission of  
6 absentee ballot materials to and from the [~~municipal~~] county  
7 clerk shall be printed in green in substantially similar form.  
8 All official inner envelopes shall be printed in green.

9 E. The reverse of each official mailing envelope  
10 shall contain a form to be signed by the person completing the  
11 absentee ballot. The form shall identify the person and shall  
12 contain the following statement: "I will not vote in this  
13 election other than by the enclosed ballot. I will not receive  
14 or offer any compensation or reward for giving or withholding  
15 any vote."."

16 Section 58. Section 3-9-7 NMSA 1978 (being Laws 1973,  
17 Chapter 375, Section 8, as amended) is amended to read:

18 "3-9-7. MANNER OF VOTING--USE OF AN ELECTRONIC VOTING  
19 DEVICE.--

20 A. Any person voting an absentee ballot under the  
21 provisions of the Municipal Election Code shall secretly mark  
22 the ballot in the manner provided in the Municipal Election  
23 Code for marking emergency paper ballots, remove any visible  
24 number on the ballot, place the ballot in the official inner  
25 envelope and securely seal the envelope. The person voting

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1 shall then place the official inner envelope inside the  
2 official mailing envelope and securely seal the envelope. The  
3 person voting shall then fill in the form on the reverse of the  
4 official mailing envelope.

5 B. Federal voters and federal qualified electors  
6 shall either deliver their ballots in person or mail the  
7 official mailing envelope to the [~~municipal~~] county clerk of  
8 their [~~municipality~~] county of residence or deliver it to a  
9 person designated by federal authority to receive executed  
10 ballots for transmission to the [~~municipal~~] county clerk of the  
11 [~~municipality~~] county of residence. Voters shall either  
12 deliver or mail the official mailing envelope to the  
13 [~~municipal~~] county clerk of their [~~municipality~~] county of  
14 residence. The [~~municipal~~] county clerk shall not accept an  
15 official outer envelope that is delivered in person to the  
16 [~~municipal~~] county clerk's office from any person other than  
17 the voter signing the official outer envelope.

18 C. Any person voting on the marksense ballot shall  
19 secretly mark the ballot by completing the arrow in pencil  
20 directly to the right of the candidate's name or the proposed  
21 question. The voter shall then place the marked ballot in the  
22 official inner envelope and securely seal the envelope and then  
23 place the official inner envelope inside the official mailing  
24 envelope and securely seal the envelope. The voter shall then  
25 complete the form on the reverse of the official mailing

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1 envelope.

2 D. When an electronic voting device is used by the  
3 voter to cast an absentee vote, the [~~municipal~~] county clerk  
4 shall ensure that each absentee voting machine is located  
5 within the office of the [~~municipal~~] county clerk. The area  
6 shall be secured by lock and key. Each day during the time the  
7 absentee voting machine is used for absentee voting, the  
8 [~~municipal~~] county clerk shall, in the presence of one other  
9 employee of the [~~municipality~~] county, unlock the office where  
10 the voting machine is located. Each day, at the close of  
11 regular office hours, the [~~municipal~~] county clerk shall, in  
12 the presence of one other [~~municipal~~] county employee, secure  
13 the office where the voting machine is located. Each day  
14 immediately after unlocking or locking the office where the  
15 voting machine is located, the [~~municipal~~] county clerk and the  
16 employee present shall sign or initial the absentee voting  
17 daily report. The [~~municipal~~] county clerk shall prescribe the  
18 form of the absentee voting daily report, which shall include  
19 the following information:

- 20 (1) the voting machine serial number;  
21 (2) beginning and ending public counter number  
22 for the day;  
23 (3) beginning and ending protective counter  
24 number for the day;  
25 (4) closing seal number, if any;

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1 (5) the total number of voters for the day;  
2 and

3 (6) a place for the date and signature of the  
4 [~~municipal~~] county clerk and the [~~municipal~~] county employee.

5 E. Voting shall be conducted substantially in the  
6 manner provided in the Municipal Election Code. The absentee  
7 voting daily report shall be submitted to the absent voter  
8 precinct on election day, along with any voting machines used."

9 Section 59. Section 3-9-8 NMSA 1978 (being Laws 1973,  
10 Chapter 375, Section 9, as amended) is amended to read:

11 "3-9-8. CARE OF ABSENTEE BALLOTS--DESTRUCTION OF UNUSED  
12 BALLOTS BY [~~MUNICIPAL~~] COUNTY CLERK.--

13 A. The [~~municipal~~] county clerk shall mark on each  
14 completed official outer envelope the date and time of receipt  
15 in [~~his~~] the county clerk's office, record this information in  
16 the absentee ballot register and safely and securely keep the  
17 official outer envelope unopened until it is delivered on  
18 election day to the proper precinct board or until it is  
19 canceled and destroyed in accordance with law. Once a ballot  
20 is officially accepted by the [~~municipal~~] county clerk and  
21 recorded in the absentee ballot register, it cannot be returned  
22 to the voter for any reason.

23 B. The [~~municipal~~] county clerk shall accept  
24 completed official outer envelopes received by mail or  
25 delivered in person to the [~~municipal~~] county clerk's office by

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1 the voter signing the official outer envelope or by members of  
2 the voter's immediate family until 7:00 p.m. on election day.  
3 For purposes of this section, "immediate family" means spouse,  
4 children, parents, brothers and sisters. Any completed outer  
5 envelope received after that time and date shall be marked as  
6 to the time and date received, shall not be delivered to the  
7 precinct board and shall be preserved until the time for  
8 election contests has expired. In the absence of a court  
9 order, after the expiration of the time for election contests,  
10 the [~~municipal~~] county clerk shall destroy all late official  
11 mailing envelopes without opening or permitting the contents to  
12 be examined, cast, counted or canvassed. Before their  
13 destruction, the [~~municipal~~] county clerk shall count the  
14 numbers of late ballots from voters, federal voters and federal  
15 qualified electors and record the number from each category in  
16 the absentee ballot register.

17 C. After 5:00 p.m. and not later than 8:00 p.m. on  
18 the Thursday immediately preceding the date of the election,  
19 the [~~municipal~~] county clerk shall record the numbers of the  
20 unused absentee ballots and shall publicly destroy in the  
21 [~~municipal~~] county clerk's office all [~~such~~] unused ballots.  
22 The [~~municipal~~] county clerk shall execute a certificate of  
23 such destruction, which shall include the numbers on the  
24 ballots destroyed, and [~~such~~] the certificate shall be placed  
25 within the absentee ballot register.

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1           D. At 7:00 p.m. on the day of the election, the  
2     ~~[municipal]~~ county clerk shall determine the number of ballots  
3     that were mailed and have not been received and execute a  
4     "certificate of unreceived absentee ballots". ~~[Such]~~ The  
5     certificate shall be placed in the absentee ballot register and  
6     shall become an official part of the register. The ~~[municipal]~~  
7     county clerk shall determine the form of the certificate of  
8     unreceived absentee ballots."

9           Section 60. Section 3-9-9 NMSA 1978 (being Laws 1973,  
10    Chapter 375, Section 10, as amended) is amended to read:

11           "3-9-9. ABSENT VOTER PRECINCT.--For the purposes of  
12    absentee voting, the governing body shall create a special  
13    absent voter precinct, cause an absent voter precinct board to  
14    be appointed consisting of election judges and election clerks  
15    as provided in the Municipal Election Code and shall designate  
16    a polling place for the counting and tallying of absentee  
17    ballots in the election on election day. The ~~[municipal]~~  
18    county clerk shall administer the oath to the election judges.  
19    A regular precinct board may be designated to serve as the  
20    absent voter precinct board. Members of the absent voter  
21    precinct board shall receive the same compensation as other  
22    precinct board members, but in no case shall a precinct board  
23    member who also serves as a member of the absent voter precinct  
24    board be entitled to extra compensation for serving on the  
25    absent voter precinct board."

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1           Section 61. Section 3-9-10 NMSA 1978 (being Laws 1985,  
2 Chapter 208, Section 98, as amended) is amended to read:

3           "3-9-10. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER  
4 PRECINCT.--After 7:00 a.m. on election day, the [~~municipal~~]  
5 county clerk shall deliver to the absent voter precinct board  
6 the absentee ballot register and the absent voter ballots  
7 received by the county clerk, any electronic voting machines  
8 used and all absentee voting daily reports. Prior to 7:00 p.m.  
9 on election day, the [~~municipal~~] county clerk shall deliver any  
10 ballots received on election day to the absent voter precinct  
11 board and the precinct board shall note the receipt of ballots  
12 in the absentee ballot register and on the absentee voter list.  
13 On delivery of the ballots, the [~~municipal~~] county clerk or  
14 [~~his~~] the clerk's designee shall remain in the presence of the  
15 absent voter precinct board until the county clerk has observed  
16 the opening of all official mailing envelopes, the deposit of  
17 all ballots in the locked ballot box and the listing of the  
18 names on all of the official mailing envelopes in the absentee  
19 voter list. All functions of the absent voter precinct board  
20 shall be conducted in the place designated as the absent voter  
21 precinct."

22           Section 62. Section 3-9-11 NMSA 1978 (being Laws 1985,  
23 Chapter 208, Section 99, as amended by Laws 1995, Chapter 98,  
24 Section 3 and also by Laws 1995, Chapter 200, Section 10) is  
25 amended to read:

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1           "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
2 PRECINCT BOARDS.--

3           A. Before opening any official mailing envelope, an  
4 election judge shall determine that the required signature has  
5 been executed on the reverse side of the official mailing  
6 envelope.

7           B. If the signature is missing, an election judge  
8 shall write "rejected" on the front of the official mailing  
9 envelope. The election clerks shall write the notation  
10 "rejected - missing signature" in the "notations" column on the  
11 absentee voter list. An election judge shall place the  
12 official mailing envelope unopened in an envelope provided for  
13 rejected ballots, seal the envelope, write the voter's name on  
14 the front of the envelope and deposit it in the locked ballot  
15 box.

16           C. Declared challengers certified by the  
17 [~~municipal~~] county clerk may examine the official mailing  
18 envelope and may challenge the ballot of any absent voter for  
19 the following reasons:

20                   (1) the official mailing envelope has been  
21 opened prior to being received by the precinct board; or

22                   (2) the person offering to vote is not a  
23 federal voter, federal qualified elector or voter as provided  
24 in the Municipal Election Code.

25           Upon the challenge of an absentee ballot, an election

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1 judge shall generally follow the same procedure as when ballots  
2 are challenged when a person offers to vote in person. If a  
3 challenged ballot is not to be counted, it shall not be opened  
4 and shall be placed in an envelope provided for challenged  
5 ballots.

6 D. If the official mailing envelopes have properly  
7 executed signatures and the voters have not been challenged:

8 (1) an election judge shall open the official  
9 mailing envelopes and deposit the ballots in their still-sealed  
10 official inner envelopes in the locked ballot box; and

11 (2) the election clerks shall mark the  
12 notation "AB" opposite the voter's name in the "notations"  
13 column of the absentee voter list.

14 E. Prior to the closing of the polls, an election  
15 judge may remove the absentee ballots from the official inner  
16 envelopes and either count and tally the results of absentee  
17 balloting by hand or register the results of each absentee  
18 ballot on a voting machine the same as if the absent voter had  
19 been present and voted in person. It shall be unlawful for any  
20 person to disclose the results of such count and tally or such  
21 registration on a voting machine of absentee ballots prior to  
22 the closing of the polls.

23 F. The [~~municipal~~] county clerk shall, prior to the  
24 opening of the polls on election day, notify the absent voter  
25 precinct board in writing whether absentee ballots are to be

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1 counted and tallied or registered on a voting machine. The  
2 procedures shall be such as to ensure the secrecy of the  
3 ballot.

4 G. Absent voter precinct polls shall be closed at  
5 7:00 p.m. on the day of the election by the absent voter  
6 precinct board."

7 Section 63. Section 3-9-13 NMSA 1978 (being Laws 1973,  
8 Chapter 375, Section 11, as amended) is amended to read:

9 "3-9-13. VOTING IN PERSON PROHIBITED.--

10 A. No person who has been issued an absentee ballot  
11 shall vote in person at that person's regular precinct polling  
12 place on election day except as otherwise provided in the  
13 Municipal Election Code.

14 B. At any time prior to 5:00 p.m. on the Friday  
15 immediately preceding the date of the election, any person  
16 whose absentee ballot application has been accepted and who was  
17 mailed an absentee ballot but who has not received the absentee  
18 ballot may execute, in the office of the [~~municipal~~] county  
19 clerk of the [~~municipality~~] county where that person is  
20 registered to vote, a sworn affidavit stating that the person  
21 did not receive or vote [~~his~~] the absentee ballot. Upon  
22 receipt of the sworn affidavit, the [~~municipal~~] county clerk  
23 shall issue the voter a replacement absentee ballot.

24 C. The [~~municipal~~] county clerk shall prescribe the  
25 form of the affidavit and the manner in which the [~~municipal~~]

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1 county clerk shall void the first ballot mailed to the  
2 applicant."

3 Section 64. Section 3-9-13.1 NMSA 1978 (being Laws 2003,  
4 Chapter 244, Section 19) is amended to read:

5 "3-9-13.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT  
6 TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

7 A. A voter who has submitted an application for an  
8 absentee ballot that was accepted by the [~~municipal~~] county  
9 clerk but who has not received the absentee ballot by mail as  
10 of the date of the election may [~~present himself at his~~] go to  
11 the assigned polling place and, after executing an affidavit of  
12 nonreceipt of absentee ballot, shall be issued an emergency  
13 paper ballot in lieu of an absentee ballot by the presiding  
14 judge, and shall be allowed to mark the ballot.

15 B. The voter shall place the completed emergency  
16 paper ballot issued in lieu of an absentee ballot in an  
17 official inner envelope, substantially in the form prescribed  
18 pursuant to Section 3-9-6 NMSA 1978, which shall be sealed by  
19 the voter. The official inner envelope shall then be placed by  
20 the voter, in the presence of the presiding judge, in an  
21 official outer envelope substantially as prescribed for a  
22 transmittal envelope or mailing envelope pursuant to Section  
23 3-9-6 NMSA 1978. The presiding judge shall fill in the  
24 information on the back of the envelope that identifies the  
25 voter by name and signature roster number and contains the

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1 printed affidavit that the voter made application for an  
2 absentee ballot, which the voter believes to have been accepted  
3 by the [~~municipal~~] county clerk, that the voter swears an  
4 absentee ballot had not been received as of the date of the  
5 election and that the voter was issued an emergency paper  
6 ballot in lieu of an absentee ballot, and that the ballot was  
7 marked by the voter and submitted to the presiding judge.

8 C. The presiding judge shall place all emergency  
9 paper ballots issued in lieu of absentee ballots in a special  
10 envelope provided for that purpose by the [~~municipal~~] county  
11 clerk, seal the envelope and return it to the [~~municipal~~]  
12 county clerk along with the machine tally sheets after the  
13 closing of the polls. The sealed envelope shall not be placed  
14 in the locked ballot box.

15 D. The [~~municipal~~] county clerk shall, upon receipt  
16 of the envelope containing emergency paper ballots in lieu of  
17 absentee ballots, and no later than forty-eight hours after the  
18 close of the polls for the election, remove the transmittal  
19 envelopes and without removing or opening the inner envelopes,  
20 determine:

21 (1) if the voter did in fact make application  
22 for an absentee ballot that was accepted by the [~~municipal~~]  
23 county clerk;

24 (2) if an absentee ballot was mailed by the  
25 [~~municipal~~] county clerk to the voter; and

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1 (3) whether an absentee ballot was received by  
2 the [~~municipal~~] county clerk from the voter by 7:00 p.m. on  
3 election day.

4 E. If the [~~municipal~~] county clerk determines that  
5 the emergency paper ballot in lieu of absentee ballot is valid,  
6 that an absentee ballot was mailed to the voter and that no  
7 absentee ballot was received from the voter by the [~~municipal~~]  
8 county clerk, the [~~municipal~~] county clerk shall remove the  
9 inner envelope without opening it, retain the transmittal  
10 envelope with the other election returns and place the inner  
11 envelope, unopened, in a secure and locked container to be  
12 transmitted to the canvassing board to be tallied and included  
13 in the canvass of the election returns for the municipality.

14 F. If the [~~municipal~~] county clerk determines that  
15 the emergency paper ballot in lieu of absentee ballot is not  
16 valid because the application for absentee ballot was rejected  
17 and no ballot was mailed to the voter, or that a ballot was  
18 received from the voter by the [~~municipal~~] county clerk not  
19 later than 7:00 p.m. on election day, the [~~municipal~~] county  
20 clerk shall write "rejected invalid ballot" on the front of the  
21 transmittal envelope and the transmittal envelope shall not be  
22 sent to the canvassing board for counting and tallying. The  
23 [~~municipal~~] county clerk shall retain the unopened transmittal  
24 envelope in a safe and secure manner and shall notify the  
25 district attorney in writing of the alleged violation of the

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1 Municipal Election Code. A copy of the notification to the  
2 district attorney shall be sent by first class mail to the  
3 voter and to the secretary of state.

4 G. The [~~municipal~~] county clerk shall furnish and  
5 shall prescribe the form of the necessary envelopes to be used  
6 in accordance with the purposes of this section, and shall take  
7 steps to preserve the secrecy of any ballots cast pursuant to  
8 this section."

9 Section 65. Section 3-9-16 NMSA 1978 (being Laws 1973,  
10 Chapter 375, Section 14, as amended) is amended to read:

11 "3-9-16. PENALTIES.--

12 A. [~~Any~~] A person who knowingly votes or offers to  
13 vote an absentee ballot to which [~~he~~] the person is not  
14 lawfully entitled to vote or offer to vote is guilty of a  
15 fourth degree felony.

16 B. [~~Any~~] A municipal official or employee or any  
17 other person who furnishes absentee ballots to persons who are  
18 not entitled to such ballots under the provisions of the  
19 Municipal Election Code is guilty of a fourth degree felony.

20 C. [~~Any~~] A municipal official or employee, precinct  
21 board member or any other person who knowingly destroys or  
22 otherwise disposes of an absentee ballot other than in the  
23 manner provided by the Municipal Election Code is guilty of a  
24 fourth degree felony.

25 D. [~~Any~~] A person who knowingly or willfully makes

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1 any false statement in any application for an absentee ballot  
2 or in the absentee ballot register or in any certificate  
3 required by the Municipal Election Code is guilty of a fourth  
4 degree felony.

5 E. A person who knowingly possesses an executed or  
6 unexecuted absentee ballot outside the physical confines of the  
7 [~~municipal~~] county clerk's office when the ballot is not the  
8 personal ballot of that person or who otherwise knowingly  
9 authorizes, aids or abets the unlawful removal of an executed  
10 or unexecuted absentee ballot from the physical confines of the  
11 [~~municipal~~] county clerk's office is guilty of a fourth degree  
12 felony.

13 F. A [~~municipal~~] county clerk who knowingly  
14 possesses an executed or unexecuted absentee ballot outside the  
15 physical confines of the [~~municipal~~] county clerk's office when  
16 that ballot is not the personal ballot of the [~~municipal~~]  
17 county clerk, or who otherwise knowingly authorizes, aids or  
18 abets the unlawful removal of an executed or unexecuted  
19 absentee ballot that is not the personal ballot of the  
20 [~~municipal~~] county clerk from the physical confines of the  
21 [~~municipal~~] county clerk's office, is guilty of a fourth degree  
22 felony."

23 Section 66. Section 3-12-2.1 NMSA 1978 (being Laws 1981,  
24 Chapter 198, Section 1, as amended) is amended to read:

25 "3-12-2.1. GOVERNING BODY--MAYOR-COUNCIL--CHANGE IN  
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1 NUMBER OF MEMBERS.--

2 A. The number of members on the council or board of  
3 trustees of a municipality having a mayor-council form of  
4 government may be changed as set forth in this section,  
5 provided [~~such~~] the number shall not be less than or more than  
6 that number specified in Subsection D of Section 3-12-2 NMSA  
7 1978.

8 B. A majority of the members elected to the  
9 governing body may adopt an ordinance increasing or decreasing  
10 the number of [~~councilmen~~] council members or trustees of that  
11 body and calling a special election on the question of  
12 approving or disapproving the change.

13 C. The governing body of the municipality shall  
14 adopt an election resolution calling a special election on the  
15 question of approving or disapproving a change in the number of  
16 [~~councilmen~~] council members or trustees if there is filed with  
17 the [~~municipal~~] county clerk a petition requesting an election  
18 on [~~such a~~] the change and the petition is signed by at least  
19 five percent of the number of registered voters of the  
20 municipality. The petition shall specify the number of  
21 [~~councilmen~~] council members in addition to the mayor [~~which~~]  
22 that shall constitute the governing body of the municipality.  
23 The petition shall be validated by the [~~municipal~~] county clerk  
24 by verification that it contains the required number of  
25 signatures of registered voters. The election resolution shall

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1 be adopted within ten days after the petition is verified by  
2 the [~~municipal~~] county clerk.

3 D. A special election to approve or disapprove a  
4 change in the number of [~~councilmen~~] council members or  
5 trustees shall be held within ninety days after the adoption of  
6 the ordinance as provided in Subsection B of this section or  
7 within ninety days after the date the petition is verified as  
8 provided in Subsection C of this section, as the case may be,  
9 or the election may be held in conjunction with a regular  
10 municipal election if such election occurs within ninety days  
11 after the adoption of the ordinance or verification of the  
12 petition. The municipality shall pay for the cost of the  
13 election.

14 E. If at an election called pursuant to this  
15 section a majority of the registered voters voting on the  
16 question of changing the number of [~~councilmen~~] council members  
17 or trustees vote in favor of [~~such~~] the change, all  
18 [~~councilmen~~] council members or trustees shall serve until  
19 their current term of office expires. At each of the  
20 subsequent two regular municipal elections, one-half of the  
21 newly required number of [~~councilmen~~] council members or  
22 trustees shall be elected.

23 F. If a majority of the registered voters voting on  
24 the question of changing the number of [~~councilmen~~] council  
25 members or trustees disapproves or approves of such change,

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1 then such change in the number of members shall not be  
2 considered again for a period of four years from the date of  
3 the election."

4 Section 67. Section 3-14-2 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-13-2, as amended) is amended to read:

6 "3-14-2. COMMISSION-MANAGER--SPECIAL ELECTION FOR  
7 ADOPTION.--

8 A. Upon petition signed by qualified electors, not  
9 less in number than fifteen percent of the votes cast for the  
10 office of mayor at the last regular municipal election, filed  
11 with the [~~municipal~~] county clerk and verified by the  
12 [~~municipal~~] county clerk to contain a sufficient number of  
13 legal signatures, the governing body shall, within ten days of  
14 verification, adopt an election resolution calling for the  
15 holding of a special election within ninety days after the  
16 verification of the petition on the question of organizing the  
17 municipality under the commission-manager form of government,  
18 or the governing body may submit to the qualified electors of  
19 the municipality the question of organizing the municipality  
20 under the commission-manager form of government.

21 B. The question to be placed shall read  
22 substantially as follows:

23 "For the commission-manager form of government and  
24 providing for the election of five commissioners \_\_\_\_; and

25 Against the commission-manager form of government

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1 and providing for the election of five commissioners \_\_\_\_."

2 Section 68. Section 3-14-3 NMSA 1978 (being Laws 1965,  
3 Chapter 300, Section 14-13-3) is amended to read:

4 "3-14-3. COMMISSION-MANAGER--CERTIFYING RESULTS OF  
5 ELECTION--RECORDING--AFFIRMATIVE VOTE--ORGANIZATION.--After the  
6 results of the election have been canvassed, the governing body  
7 shall certify the results to the municipal clerk and county  
8 clerk, and they shall be recorded in the minutes book of the  
9 municipality. If a majority of the votes cast on the question  
10 favor organizing under a commission-manager form of government,  
11 the governing body shall proceed to organize the municipality  
12 under the commission-manager form of government."

13 Section 69. Section 3-14-7 NMSA 1978 (being Laws 1965,  
14 Chapter 300, Section 14-13-7) is amended to read:

15 "3-14-7. COMMISSION-MANAGER--CANDIDATES FOR OFFICE--  
16 WRITE-IN BALLOTS.--If no more candidates qualify for office  
17 than there are vacancies to be filled, they shall be declared  
18 elected without a vote upon certification by the [~~municipal~~]  
19 county clerk. If there is no candidate for office, the ballot  
20 shall be printed without names and a voter may write in the  
21 name of a qualified elector upon the ballot."

22 Section 70. Section 3-14-16 NMSA 1978 (being Laws 1965,  
23 Chapter 300, Section 14-13-16) is amended to read:

24 "3-14-16. COMMISSION-MANAGER--RECALL--ELECTION--BALLOT--  
25 EFFECT--FILLING VACANCIES.--

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1           A. In any commission-manager municipality, any  
2 elective officer is subject to a recall election. Upon  
3 petition seeking the recall of an elective officer, signed by  
4 the qualified electors in a number more than twenty percent of  
5 the average number of voters who voted at the previous four  
6 regular municipal elections or more than twenty percent of the  
7 number of voters who voted at the previous regular municipal  
8 election, whichever is the greater, the commission shall call a  
9 special election unless the regular municipal election occurs  
10 within sixty days, in which case the qualified electors shall  
11 vote on the recall at the regular election.

12           B. In either case, there shall be a special ballot  
13 containing the name of the officer, the title of the office [~~he~~  
14 ~~holds~~] and the dates of the beginning and termination of [~~his~~  
15 the officer's official term. Below the name of the officer  
16 shall be two phrases, "For the recall" and "Against the  
17 recall", one below the other with a space after each for  
18 placing a cross where desired. If a majority of the votes cast  
19 favor recall and the number of votes cast favoring a recall are  
20 equal to or more than the number the officer received when [~~he~~  
21 the officer was a candidate for office, the office in question  
22 is declared vacant.

23           C. If an officer is recalled, [~~he~~] the officer  
24 shall not be eligible for reelection until the term for which  
25 [~~he~~] the officer was originally elected has expired.

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1           D. If the recall election results in a failure to  
2 secure the votes necessary to recall, the officer in question  
3 shall not be subject again to recall until six months have  
4 elapsed from the date the previous recall election was held.

5           E. A vacancy created by a recall election shall be  
6 filled in the same manner as other vacancies on the commission  
7 are filled. If all commissioners are recalled at the same  
8 election, [~~the municipal clerk or, if there is no municipal~~  
9 ~~clerk~~] the district court shall, within three days, call an  
10 election as provided in Section [~~14-13-8 New Mexico Statutes~~  
11 ~~Annotated, 1953 Compilation~~] 3-14-8 NMSA 1978 for the election  
12 of five commissioners."

13           Section 71. Section 3-30-2 NMSA 1978 (being Laws 1965,  
14 Chapter 300, Section 14-29-2) is amended to read:

15           "3-30-2. NONRESIDENT MUNICIPAL ELECTOR--QUALIFICATIONS.--  
16 A "nonresident municipal elector" means any qualified elector  
17 who:

18           A. is registered to vote in the county in which the  
19 municipality holding an election on the question of creating a  
20 debt is situated;

21           B. has paid a property tax on property located  
22 within the municipality holding an election on the question of  
23 creating a debt during the year preceding the election; and

24           C. has registered with the municipal clerk [~~his~~]  
25 or, if appropriate, the county clerk, the elector's intention

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1 to vote at the municipal election on the question of creating a  
2 municipal debt in the manner provided in Section [~~14-29-3 New~~  
3 ~~Mexico Statutes Annotated, 1953 Compilation~~] 3-30-3 NMSA 1978."

4 Section 72. Section 3-30-3 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-29-3) is amended to read:

6 "3-30-3. NONRESIDENT MUNICIPAL ELECTOR--MANNER OF  
7 REGISTERING TO VOTE ON QUESTION OF CREATING A MUNICIPAL DEBT--  
8 CERTIFICATE OF ELIGIBILITY.--Not more than sixty nor less than  
9 fifteen days before the day of a municipal election on the  
10 question of creating a debt, any nonresident municipal elector  
11 desiring to vote on the question of creating a municipal debt  
12 shall file with the municipal clerk or, if appropriate, the  
13 county clerk of the county a certificate of eligibility [~~which~~]  
14 that shall be the registration required of the nonresident  
15 municipal elector for voting at a municipal election on the  
16 question of creating a debt. The certificate of eligibility  
17 shall be in substantially the following form:

18 "I, \_\_\_\_\_, desire

19 (Last Name, First Name, Middle Name)

20 to vote at the municipal election to be held on

21 \_\_\_\_\_ and request the county clerk

22 (Insert date of election)

23 and county treasurer of \_\_\_\_\_ to

24 (Insert name of county)

25 certify that I am a nonresident municipal elector of

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1 the \_\_\_\_\_.

2 (Insert name of the municipality)

3 Signed: \_\_\_\_\_

4 (Signature of nonresident municipal elector)

5 I hereby certify that the above named nonresident  
6 municipal elector is registered to vote in this county.

7 Signed: \_\_\_\_\_

8 (County Clerk)

9 I hereby certify that the above named nonresident  
10 municipal elector has paid a tax on property within

11 the \_\_\_\_\_ during the preceding

12 (Insert name of the municipality)

13 year to-wit on the \_\_\_\_ day of \_\_\_\_\_, [~~19~~] 20\_\_.

14 Signed: \_\_\_\_\_".

15 (County Treasurer)

16 Section 73. Section 3-30-4 NMSA 1978 (being Laws 1965,  
17 Chapter 300, Section 14-29-4) is amended to read:

18 "3-30-4. NONRESIDENT POLLING PLACE--DUTIES OF THE COUNTY  
19 CLERK OR MUNICIPAL CLERK TO REGISTER NONRESIDENT MUNICIPAL  
20 ELECTORS.--

21 A. In the same manner that polling places are  
22 secured for the conduct of a municipal election, the county  
23 clerk or municipal clerk shall provide a polling place within  
24 the municipality for nonresident municipal electors desiring to  
25 vote on the question of creating a municipal debt. The polling

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1 place shall be separate from any other polling place located  
2 within the municipality.

3 B. Not less than five days before the date of an  
4 election on the question of creating a municipal debt, the  
5 county clerk or municipal clerk shall place, by name in  
6 alphabetical order, all certificates of eligibility filed by  
7 nonresident municipal electors in a registration book kept for  
8 that purpose. The registration book for nonresident municipal  
9 electors shall be delivered to the judge and clerks of the  
10 election at the polling place for nonresident municipal  
11 electors in the same manner other registration books are  
12 delivered to the judges and clerks of the election in the  
13 remaining polling places, and the certificates of eligibility  
14 shall serve as the registration forms for the nonresident  
15 municipal elector desiring to vote on the question of creating  
16 a debt."

17 Section 74. Section 3-30-7 NMSA 1978 (being Laws 1965,  
18 Chapter 300, Section 14-29-7, as amended) is amended to read:

19 "3-30-7. CANVASS OF BOND ELECTION--CERTIFICATION OF  
20 RESULTS--EFFECT.--

21 A. The vote upon each question proposing to issue  
22 negotiable bonds shall be canvassed as provided in the  
23 Municipal Election Code, and the [~~municipal~~] county clerk shall  
24 certify the results of the election and have the municipal  
25 clerk file the certificate of canvass in the official minute

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book of the municipality.

B. If a majority of those voting on the question favor the creation of the debt, the governing body of the municipality may proceed to issue the negotiable bonds."

Section 75. REPEAL.--Laws 1995, Chapter 98, Section 3 is repealed.